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# Contents

**Federal Register**

Vol. 88, No. 51

Thursday, March 16, 2023

**Agriculture Department**
*See* Animal and Plant Health Inspection Service
*See* Farm Service Agency
*See* Forest Service

**Animal and Plant Health Inspection Service**
**RULES**
Standards for Birds Not Bred for Use in Research Under the Animal Welfare Act; Correction, 16173–16174

**Bureau of Consumer Financial Protection**
**PROPOSED RULES**
Mortgage Loan Originator Rules Review Pursuant to the Regulatory Flexibility Act (Regulation Z), 16198–16205

**Coast Guard**
**RULES**
Anchorage Regulation:
Special Anchorages Areas within the First Coast Guard District, 16185–16188
Electrical Engineering Regulations, 16310–16369
Safety Zone:
Point Mugu Airshow, Naval Base Ventura County, CA, 16188–16190
Southern California Annual Firework Events for the San Diego Captain of the Port Zone, 16188

**Commerce Department**
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration
*See* National Telecommunications and Information Administration

**Community Living Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Councils on Developmental Disabilities State Plan, 16261–16263
Disaster Assistance for Centers for Independent Living in Florida and Puerto Rico, 16258–16259
Program Application Instructions for Disaster Recovery Assistance for the Florida Protection and Advocacy System, 16263–16264
Program Application Instructions:
Developmental Disabilities Assistance and Bill of Rights Act, State Councils on Developmental Disabilities for Disaster Recovery Assistance in Florida and Puerto Rico, 16259–16261

**Consumer Product Safety Commission**
**NOTICES**
Meetings; Sunshine Act, 16248

**Copyright Office, Library of Congress**
**RULES**
Copyright Registration Guidance:
Works Containing Material Generated by Artificial Intelligence, 16190–16194

**Defense Department**
**RULES**
Privacy Act; Implementation, 16182–16185

**Education Department**
*See* National Assessment Governing Board
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
William D. Ford Federal Direct Loan Program Repayment Plan Selection Form, 16249

**Election Assistance Commission**
**NOTICES**
Voluntary Voting System Guidelines; Correction, 16249

**Energy Department**
*See* Federal Energy Regulatory Commission

**Farm Service Agency**
**NOTICES**
Funding Availability:
Emergency Grain Storage Facility Assistance Program, 16230–16235

**Federal Aviation Administration**
**RULES**
Airworthiness Directives:
Airbus Helicopters Deutschland GmbH (AHD) Helicopters, 16174–16182
**NOTICES**
Airport Property:
Lakeland Linder Regional Airport, Lakeland, FL, 16301

**Federal Communications Commission**
**PROPOSED RULES**
Radio Broadcasting Services:
Peach Springs, AZ, 16206–16207
Television Broadcasting Services:
Elko, NV, 16205–16206
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16252–16255
Meetings, 16252, 16256–16257

**Federal Energy Regulatory Commission**
**NOTICES**
Environmental Assessments; Availability, etc.:
Texas Eastern Transmission, LP; Grand Chenier Compressor Station Abandonment Project; Scoping Period, 16250–16252
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
DTE Energy Services, Inc., 16249–16250

**Federal Motor Carrier Safety Administration**
**PROPOSED RULES**
Fees for the Unified Carrier Registration Plan and Agreement, 16207–16212

**Federal Railroad Administration**
**NOTICES**
Positive Train Control Implementation Plan:
Southeastern Pennsylvania Transportation Authority, 16302–16303

Positive Train Control Safety Plan and Positive Train Control System:
Florida East Coast Railway, 16302
Request to Amend Its Positive Train Control System:
Trinity Railway Express, 16301–16302

**Federal Reserve System**
**NOTICES**
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 16257
Proposals to Engage in or to Acquire Companies Engaged in Permissible Nonbanking Activities, 16257

**Federal Retirement Thrift Investment Board**
**NOTICES**
Meetings, 16257–16258

**Fish and Wildlife Service**
**NOTICES**
Privacy Act; Systems of Records, 16277–16279

**Food and Drug Administration**
**RULES**
Listing of Color Additives Exempt from Certification:
Spirulina Extract, 16182
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Radioactive Drug Research Committees, 16272–16274
Guidance:
Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act, 16270–16271
Development of Local Anesthetic Drug Products With Prolonged Duration of Effect, 16265–16266
Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers, 16268–16270
The Use of Published Literature in Support of New Animal Drug Approvals, 16267–16268
Issuance of Priority Review Voucher; Rare Pediatric Disease Product, 16266, 16274–16275
New Drug Applications:
Fresenius Kabi USA, LLC, et.al.; Withdrawal of Approval, 16271–16272
Request for Nominations:
Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives; Nonvoting Industry Representatives on the Blood Products Advisory Committee, 16266–16267

**Foreign Assets Control Office**
**NOTICES**
Sanctions Actions, 16303–16306

**Forest Service**
**NOTICES**
Revision of the Land Management Plan for the Lolo National Forest, 16235–16236

**Geological Survey**
**NOTICES**
Call for Nominations:
Advisory Council for Climate Adaptation; Reopening, 16279

**Health and Human Services Department**
*See* Community Living Administration
*See* Food and Drug Administration
*See* National Institutes of Health
*See* Substance Abuse and Mental Health Services Administration
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16275

**Homeland Security Department**
*See* Coast Guard
**NOTICES**
Charter Amendments, Establishments, Renewals and Terminations:
Homeland Security Advisory Council, 16276–16277

**Inter-American Foundation**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Grant Application Concept Note, 16277

**Interior Department**
*See* Fish and Wildlife Service
*See* Geological Survey
*See* Land Management Bureau

**Internal Revenue Service**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Capitalization of Interest, 16306–16307
Superfund Chemical Substance Tax:
Request to Modify List of Taxable Substances; Filing of Petition for Cellulose Acetate (Degree of Substitution = 1.5 – 2.0), 16307–16308

**International Trade Administration**
**NOTICES**
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Large Power Transformers from the Republic of Korea, 16236–16238

**Land Management Bureau**
**NOTICES**
Record of Decision:
Whitewater River Groundwater Replenishment Facility, Riverside County, CA, 16279–16280

**Library of Congress**
*See* Copyright Office, Library of Congress

**National Aeronautics and Space Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Website Customer Satisfaction Survey, 16280

**National Assessment Governing Board**
**NOTICES**
Request for Information:
Updating the Science Assessment Framework for the 2028 National Assessment of Educational Progress, 16248–16249

**National Endowment for the Humanities**
NOTICES
Meetings:
Humanities Panel, 16280–16281

**National Foundation on the Arts and the Humanities**
*See* National Endowment for the Humanities

**National Institutes of Health**
NOTICES
Meetings:
National Heart, Lung, and Blood Institute, 16275–16276

**National Oceanic and Atmospheric Administration**
RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Spiny Lobster Management Measures, 16194–16196
Fisheries of the Exclusive Economic Zone off Alaska:
Pacific Cod by Vessels Using Jig Gear in the Western Regulatory Area of the Gulf of Alaska, 16196–16197
PROPOSED RULES
Endangered and Threatened Species:
Listing the Sunflower Sea Star as Threatened under the Endangered Species Act, 16212–16229
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 16242–16243
New England Fishery Management Council, 16243
North Pacific Fishery Management Council, 16238–16239
Pacific Fishery Management Council, 16239–16242

**National Telecommunications and Information Administration**
NOTICES
Meetings:
National Spectrum Strategy Listening Session, 16243–16244
Request for Comments:
Development of a National Spectrum Strategy, 16244–16247

**Nuclear Regulatory Commission**
NOTICES
Report on Waste Burial Charges:
Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities, 16281–16282

**Personnel Management Office**
NOTICES
Privacy Act; Systems of Records, 16282–16285

**Presidential Documents**
PROCLAMATIONS
Special Observances:
National Equal Pay Day (Proc. 10530), 16169–16170
ADMINISTRATIVE ORDERS
Balanced Budget and Emergency Deficit Control Act; Sequestration Order for Fiscal Year 2024 Pursuant to Section 251A (Order of March 13, 2023), 16171

**Securities and Exchange Commission**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16288–16289
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 16285–16288
Financial Industry Regulatory Authority, Inc., 16289–16291
Nasdaq BX, Inc., 16291–16295
NYSE Arca, Inc., 16295–16300

**Small Business Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16300

**State Department**
NOTICES
Culturally Significant Object Being Imported for Exhibition:
Pacita Abad, 16300–16301

**Substance Abuse and Mental Health Services Administration**
NOTICES
Funding Opportunity:
Fiscal Year 2023; Supplemental, 16276

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Motor Carrier Safety Administration
*See* Federal Railroad Administration

**Treasury Department**
*See* Foreign Assets Control Office
*See* Internal Revenue Service

**Veterans Affairs Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Servicemembers' Group Life Insurance' Traumatic Injury Protection (TSGLI) Application for TSGLI Benefits and TSGLI Appeal Request Form, 16308

**Separate Parts In This Issue**

**Part II**
Homeland Security Department, Coast Guard, 16310–16369

**Reader Aids**
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**3 CFR**

**Proclamations:**

10530 ..... 16169

**Administrative Orders:**

Orders:

Order of March 13, 2023 ..... 16171

**9 CFR**

1 ..... 16173

2 ..... 16173

3 ..... 16173

**12 CFR**

**Proposed Rules:**

1026 ..... 16198

**14 CFR**

39 ..... 16174

**21 CFR**

73 ..... 16182

**32 CFR**

310 ..... 16182

**33 CFR**

110 ..... 16185

165 (2 documents) ..... 16188

**37 CFR**

202 ..... 16190

**46 CFR**

110 ..... 16310

111 ..... 16310

112 ..... 16310

113 ..... 16310

**47 CFR**

**Proposed Rules:**

73 (2 documents) ..... 16205, 16206

**49 CFR**

**Proposed Rules:**

367 ..... 16207

**50 CFR**

622 ..... 16194

679 ..... 16196

**Proposed Rules:**

223 ..... 16212

Federal Register
Vol. 88, No. 51
Thursday, March 16, 2023

# Presidential Documents

**Title 3—**

## The President

**Proclamation 10530 of March 13, 2023**

## National Equal Pay Day, 2023

**By the President of the United States of America**

**A Proclamation**

Despite historic growth, rising wages, and unemployment at a near record low, women working full-time, year-round are paid an average 84 cents for every dollar paid to men. Pay disparities are even more pronounced for Black women, Native American women, Latinas, many Asian American women, and women with disabilities. On Equal Pay Day, we call attention to this injustice and the pay disparities that add up to hundreds of thousands of dollars in lost income over a lifetime, undermining financial security for women and families across our Nation. My Administration is working to change that.

Discrimination accounts for some of the pay gap. In nearly every job—90 percent of occupations, from retail to business to professional sports—women are still paid, on average, less than men. They can be the very best at what they do but still have to fight for equal pay. The pay gap also stems from women's disproportionate caregiving responsibilities for children and aging loved ones, which can force them to forgo job opportunities, reduce their work hours, or leave the workforce at times. And part of it is due to the fact that women are underrepresented in careers that offer good pay and benefits, while fields where they are overrepresented, like teaching and nursing, do not pay what they should, despite being critical to our communities and economy.

To right that wrong and truly level the playing field, we need to not only crack down on discrimination but also address the systemic issues behind the pay gap. My Administration has been laser-focused on rooting out pay inequity and dismantling the barriers that women face in the workplace and across our economy. When COVID–19 forced millions of women out of the workforce, often to care for their families at home, women's labor participation fell to its lowest level in 35 years. But we sent billions in direct stimulus relief to families to help make ends meet. We provided another $24 billion in funds to stabilize child care providers, supporting working parents. Today, millions of American women are back at work—and a record 12 million jobs have been created since I took office, with many more to come in good-paying clean energy and semiconductor careers of the future. And we are working to ensure that those workers who will power our economy for years to come have access to child care, giving women more opportunities to succeed.

Meanwhile, I took executive action to raise the minimum wage that Federal contractors are required to pay their workers, directly benefiting tens of thousands of women. I also issued Executive Orders to consider the use of salary history in pay-setting decisions for Federal workers and to promote efforts to achieve pay equity for job applicants and employees of Federal contractors. I have fought for every worker's right to join a labor union and collectively bargain, which has been proven to lift women's wages, and I also signed historic legislation strengthening workplace protections and support for pregnant women and nursing mothers. I will never stop pushing to expand access to quality child and elder care while boosting pay for professional caregivers, who are disproportionately women of color.

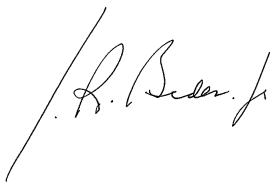
We have used the power of our example and put women at the head of the table across the highest levels of Government—from the Vice Presidency, to the Supreme Court, to the most diverse Cabinet in our history, which is the first ever to have equal numbers of women and men. Doing so sets expectations for women leaders across the country and in every workplace and shows our daughters and granddaughters that there is nothing a man can do that a woman cannot do.

But we clearly still have a long way to go. To tackle pay discrimination head-on, I continue to urge the Congress to pass the Paycheck Fairness Act, which would increase transparency, making it harder for employers to justify disparities and easier for workers to hold them accountable. Information is power, and people need to know if they are being unfairly paid. We also have to get more families the support needed for both women and men to lead full careers—including paid family and medical leave and affordable child, elder, and home care so no one in this country is ever again forced to choose between the job they need and the family they love.

I have often said that a job is about more than a paycheck—it is about dignity and respect. It is about honoring the basic bargain that when you work hard in this country, you get ahead. Equal pay is about justice and fairness and living up to our values and who we are as a Nation. Together, we have to make sure that our daughters have the same rights and opportunities as our sons.

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 March 14, 2023, as National Equal Pay Day. I call upon all Americans to recognize the full value of women's skills and their significant contributions to the labor force, acknowledge the injustice of wage inequality, and join efforts to achieve equal pay.

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



[FR Doc. 2023–05510

Filed 3–15–23; 8:45 am]

Billing code 3395–F3–P

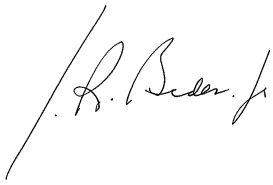
# Presidential Documents

**Order of March 13, 2023**

## Sequestration Order for Fiscal Year 2024 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act (the ''Act''), as amended, 2 U.S.C. 901a, I hereby order that, on October 1, 2023, direct spending budgetary resources for fiscal year 2024 in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of March 13, 2023.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget's report of March 13, 2023, prepared pursuant to section 251A(9) of the Act.



THE WHITE HOUSE,
*March 13, 2023.*

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# Rules and Regulations

Federal Register

Vol. 88, No. 51

Thursday, March 16, 2023

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.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Parts 1, 2, and 3

**[Docket No. APHIS–2020–0068]**

**RIN 0579–AE61**

## Standards for Birds Not Bred for Use in Research Under the Animal Welfare Act; Correction

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** The Animal and Plant Health Inspection Service is correcting a final rule that was published in the **Federal Register** on February 21, 2023. The rule established standards governing the humane handling, care, treatment, and transportation of birds, excluding birds bred for use in research, covered under the Animal Welfare Act. The final rule erroneously omitted a word from one paragraph in the amendatory text and included an inaccurate phrase in another paragraph of the amendatory text. This document corrects these errors and amends the regulations to add the appropriate wording.

**DATES:** This correction is effective March 23, 2023.

**FOR FURTHER INFORMATION CONTACT:** Dr. Cody M. Yager, DVM, MPH, Avian Specialist, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737; *cody.m.yager@usda.gov;* (970) 494–7478.

**SUPPLEMENTARY INFORMATION:** On February 21, 2023, we published a final rule (88 FR 10654–10721) [1] that will be effective on March 23, 2023, and that established standards in 9 CFR part 3 to govern the humane handling, care, treatment, and transportation of birds, excluding birds bred for use in research, covered under the Animal Welfare Act (AWA). We also revised the already existing AWA regulations in parts 1 and 2 as appropriate to include birds.

The amendatory instruction to the Office of the Federal Register for the revision to § 2.1 included an instruction to add two sentences to the end of paragraph (a)(3)(iii). These sentences constitute a new licensing exemption, specific to birds, with exemption thresholds based on the number and size of birds sold annually.

For reasons we explain on page 10672 in the preamble to the final rule, our intention is that the regulatory exemption threshold is to be based on the number of birds sold annually (*i.e.,* per calendar year). However, we inadvertently omitted the word ''annually'' in paragraph (a)(3)(iii) of the regulatory text in the four instances where we intended it to occur.

We therefore consider it necessary to add the word ''annually'' to § 2.1(a)(3)(iii) in four locations to indicate our intention in the regulatory text.

In addition, the amendatory instruction we provided to the Office of the Federal Register for revising § 3.161(g) included language stating that carriers and intermediate handlers must not accept unweaned birds for transport unless an attending veterinarian finds that such transportation is necessary for veterinary care. However, on page 10703 in the preamble to the final rule, we stated that we are amending proposed § 3.161(g) to indicate that carriers and intermediate handlers must not accept unweaned birds for transport unless instructions for conditions of transport to ensure the health and well-being of the birds are specified and written by the attending veterinarian, and signed within 10 days of shipment. We also stated that these instructions are intended to ensure that temperature, handling, and other conditions of transport are not detrimental to the health and well-being of the birds in accordance with the Act. Our intention is to allow unweaned birds to be accepted for transport as long as the instructions for conditions of transport ensure the health and well-being of the birds. We did not intend that veterinary care be the sole authorized reason for transporting unweaned birds.

To correct the amendatory text with the intended meaning explained in the preamble, we therefore consider it necessary to remove the words ''an attending veterinarian finds that such transportation is necessary for veterinary care, and transport instructions'' in § 3.161(g) and replace them with the words ''transport instructions to ensure the health and well-being of the birds''.

Accordingly, this rule corrects the inadvertent omission and inaccurate phrase.

### Corrections

In FR Doc. 2023–03357 appearing on page 10713 in the **Federal Register** of Wednesday, February 22, 2023, the following corrections are made:

#### § 2.1 [Corrected]

■ 1. On page 10713, in the first column in § 2.1, in paragraph (a)(3)(iii), ''* * * Also exempt from licensing is any person who sells 200 or fewer pet birds 250 grams or less, and/or sells 8 or fewer pet birds more than 250 grams, determined by average adult weight of the species, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license. This exemption does not extend to any person residing in a household that collectively sells more than 200 pet birds 250 grams or less, and/or sells more than 8 pet birds more than 250 grams, regardless of ownership;'' is corrected to read ''* * * Also exempt from licensing is any person who sells 200 or fewer pet birds 250 grams or less annually, and/or sells 8 or fewer pet birds more than 250 grams annually, determined by average adult weight of the species, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license. This exemption does not extend to any person residing in a household that collectively sells more than 200 pet birds 250 grams or less annually, and/or sells more than 8 pet birds more than 250 grams annually, regardless of ownership;''

#### § 3.161 [Corrected]

■ 2. On page 10719, in the second column, in § 3.161, in paragraph (g), ''Carriers and intermediate handlers must not accept unweaned birds for transport unless an attending

[1] To view the final rule, go to *http://www.regulations.gov* and enter APHIS–2020–0068 in the Search field.

veterinarian finds that such transportation is necessary for veterinary care, and transport instructions are specified and written by the attending veterinarian, and signed within 10 days of shipment.'' is corrected to read ''Carriers and intermediate handlers must not accept unweaned birds for transport unless transport instructions to ensure the health and well-being of the birds are specified and written by the attending veterinarian, and signed within 10 days of shipment.''

Done in Washington, DC, this 10th day of March 2023.

**Michael Watson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2023–05372 Filed 3–15–23; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2023–0430; Project Identifier MCAI–2022–01092–R; Amendment 39–22378; AD 2023–05–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model EC135P3 and EC135T3 helicopters with Helionix installed, and Model MBB–BK 117 D–2 and MBB–BK 117 D–3 helicopters. This AD was prompted by multiple reports of multi-function display (MFD) failures. This AD requires revising the existing Rotorcraft Flight Manual (RFM) for your helicopter. This AD also requires repetitively inspecting the MFD, and depending on the results, installing placards and limiting the operation of the helicopter, and taking other corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective March 31, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 31, 2023.

The FAA must receive comments on this AD by May 1, 2023.

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

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

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–0430; 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 listed above.

*Material Incorporated by Reference:*

- For EASA material that is incorporated by reference in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2023–0430.

*Other Related Service Information:* For Airbus Helicopters service information identified in this final rule, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *airbus.com/helicopters/services/technical-support.html.* You may also view this service information at the FAA contact information under *Material Incorporated by Reference* above.

**FOR FURTHER INFORMATION CONTACT:** Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued two EASA ADs with the most recent being EASA AD 2022–0168, dated August 12, 2022 (EASA AD 2022–0168), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH Model EC135 P3H, EC135 T3H, EC635 P3H, EC635 T3H, MBB–BK117 D–2, MBB–BK117 D–3, and MBB–BK117 D–3m helicopters; and Airbus Helicopters Model EC 175 B and H160–B helicopters.

EASA AD 2022–0168 superseded EASA AD 2022–0143, dated July 8, 2022 (EASA AD 2022–0143). EASA AD 2022–0143 was prompted by reports where all MFDs failed on an MBB–BK117 D–3 helicopter. An investigation determined that a deficiency in the Ethernet network management of the Integrated Modular Avionics (IMA) suite led to the failures of the MFDs. To address this unsafe condition, EASA issued EASA AD 2022–0143, which required repetitive checks (inspections) of the functional status of the IMA Ethernet network and, depending on the results, certain corrective action(s), which may include an operational limitation. This operational limitation, if required, prohibited the operation of a helicopter in Instrument Meteorological Conditions (IMC) and Night Visual Meteorological Conditions (VMC); and required installation of a placard on the instrument panel.

After EASA issued EASA AD 2022–0143, Airbus Helicopters developed an RFM emergency procedure to provide instruction, which is to be applied in case of loss of all MFD function; therefore, EASA issued superseding EASA AD 2022–0168 to retain the requirements of EASA AD 2022–0143 and also require incorporating the RFM emergency procedure. EASA AD 2022–0168 is considered to be an interim action and states that further AD action may follow.

The FAA is issuing this AD to address possible loss of MFD function which results in the unexpected loss of display of important flight parameters to the pilots, which could lead to loss of control of the helicopter. See EASA AD 2022–0168 for additional background information.

### Related Service Information Under 1 CFR Part 51

EASA AD 2022–0168 requires repetitively testing several components of the IMA suite and depending on the

results, troubleshooting is required. Depending on the results of the troubleshooting procedure, EASA AD 2022–0168 also requires implementing certain operational limitations and installing a placard in the cockpit. Lastly, EASA AD 2022–0168 also requires revising the RFM to incorporate emergency procedures in the event of MFD failure displayed on all MFDs.

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.

**Other Related Service Information**

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) EC135H–05A–001, ASB MBB–BK117 D–3–05A–001, and ASB MBB–BK117 D–2–05A–003, each Revision 0 and each dated July 7, 2022. This service information specifies procedures for checking the Ethernet connection of equipment with the MFDs and, if necessary, specifies the operation limitation and installation of the placard in the cockpit of the applicable model helicopter.

The FAA also reviewed Airbus Helicopters Safety Information Notice (SIN) No. 3838–S–42, Revision 0, dated October 26, 2022. This SIN provides additional background information and supplementary notes and recommendations regarding MFD failure during flight.

**FAA's Determination**

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other helicopters of the same type designs.

**Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2022–0168, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the EASA AD.''

This AD also requires revising the existing RFM for your helicopter. Revising the existing RFM for your helicopter by updating the emergency procedures section may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022–0168 is incorporated by reference in this FAA final rule. Service information referenced in EASA AD 2022–0168 is available at *regulations.gov* under Docket No. FAA–2023–0430.

**Differences Between This AD and the EASA AD**

EASA AD 2022–0168 applies to Airbus Helicopters Deutschland GmbH Model EC635 P3H, EC635 T3H, and MBB–BK117 D–3m helicopters and Airbus Helicopters Model EC 175B and H160–B helicopters. This AD does not apply to those model helicopters because those models are not FAA type-certificated. EASA AD 2022–0168 also applies to Airbus Helicopters Deutschland GmbH Model EC135 P3H and EC135 T3H helicopters. This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model EC135P3 and EC135T3 helicopters with Helionix installed instead because helicopters with an EC135P3H or EC135T3H designation are Model EC135P3 helicopters or Model EC135T3 helicopters with Helionix installed, respectively.

EASA AD 2022–0168 requires revising the emergency procedures section of the existing RFM for your helicopter to specify that a pilot ''land as soon as practicable'' in the event there is MFD failure on all MFDs, whereas this AD requires revising the emergency procedures section of the existing RFM for your helicopter to specify that a pilot ''land as soon as possible'' in the event there is MFD failure on all MFDs.

This AD allows the owner/operator (pilot) holding at least a private pilot certificate to revise the existing RFM for your helicopter and do the logbook entry, whereas EASA AD 2022–0168 does not specify this. This AD requires these actions to be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

EASA AD 2022–0168 requires certain operational and maintenance mode test procedure checks, and checking certain wires, whereas this AD requires operational and maintenance mode test procedure inspections because those actions must be accomplished by persons authorized under 14 CFR 43.3. Where EASA AD 2022–0168 requires ''installation of a placard in the cockpit,'' this AD also requires that action be accomplished by persons authorized under 14 CFR 43.3.

EASA AD 2022–0168 requires operators to ''inform all flight crews'' of the operational limitation as defined in EASA AD 2022–0168 and, thereafter, to ''operate the helicopter accordingly.'' However, this AD does not specifically require those actions. FAA regulations mandate compliance with placards; therefore, it is not necessary to include a requirement in this AD to ''operate the helicopter accordingly.'' Furthermore, compliance with an AD requirement to ''inform all flight crews'' of the additional operational limitation is impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to inform all flight crews of an additional operational limitation is unenforceable.

EASA AD 2022–0168 specifies contacting Airbus Helicopters to obtain approved instructions and accomplishing those instructions, whereas this AD requires accomplishing corrective action in accordance with a method approved by the FAA, EASA, or Airbus Helicopters Deutschland GmbH's EASA Design Organization Approval.

**Interim Action**

The FAA considers this AD interim action. If further action is identified, the FAA might consider further rulemaking.

**Justification for Immediate Adoption and Determination of the Effective Date**

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

An unsafe condition exists that requires the immediate adoption of this

AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because the multi-function display is a critical component of the helicopter and displays vital avionics information to the pilot, and loss of its functionality could occur during any phase of flight without previous indication. The FAA also has no information as to how quickly this condition may propagate into failure. In light of this, the initial inspection must be accomplished within 55 hours time-in-service after the effective date of this AD. Based on the average flight-hour utilization rates of these helicopters, some of these helicopters could reach the compliance time for the initial requirements within about two months. Therefore, the compliance time for the required actions is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

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

**Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0430; Project Identifier MCAI–2022–01092–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Regulatory Flexibility Act**

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

**Costs of Compliance**

The FAA estimates that this AD affects 97 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Inspecting the Ethernet connectivity of the IMA suite takes up to 0.25 work-hour for an estimated cost of up to $21 per helicopter and $2,037 for the U.S. fleet per inspection cycle.

If necessary, troubleshooting the components of the IMA suite takes up to 12 work-hours for an estimated cost of up to $1,020 per helicopter. Additionally, during troubleshooting, you may incur the following costs:

If necessary, repairing the IMA suite cables takes up to 25 work-hours for an estimated cost of up to $2,125 per cable repair.

If necessary, replacing the data transfer device (DTD) takes about 2 work-hours and parts cost about $18,711 for an estimated cost of $18,881 per DTD replacement.

If necessary, replacing the airborne communication server (ACS) takes about 6 work-hours and parts cost $35,702 for an estimated cost of $36,212 per ACS replacement.

If necessary, replacing a dynamic monitoring acquisition unit (DMAU) takes about 5 work-hours and parts cost about $66,457 for an estimated cost of $66,882 per replacement.

If necessary, replacing an MFD takes about 8 work-hours and parts cost about $71,296 for an estimated cost of $71,976 per replacement.

If necessary, replacing the aircraft management computer (AMC) takes about 10 work-hours and parts cost about $92,051 for an estimated cost of $92,901 per replacement.

If necessary, installing placards on the instrument panel would take about 1 work-hour and parts cost a nominal amount for an estimated cost of $85 per helicopter.

The FAA has no data to estimate the costs to accomplish approved repairs based on the results of the inspections and the FAA has no data to determine the number of helicopters that might need repair.

Revising the existing RFM for your helicopter takes about 0.25 work-hour for an estimated cost of $21 per helicopter and $2,037 for the U.S fleet.

**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, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

## List of Subjects in 14 CFR Part 39

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

## The Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2023–05–09 Airbus Helicopters Deutschland GmbH (AHD):** Amendment 39–22378; Docket No. FAA–2023–0430; Project Identifier MCAI–2022–01092–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 31, 2023.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model EC135P3 and EC135T3 helicopters with Helionix installed, and Model MBB–BK 117 D–2 and MBB–BK 117 D–3 helicopters, certificated in any category.

**Note 1 to paragraph (c):** Helicopters with an EC135P3H or EC135T3H designation are Model EC135P3 helicopters or Model EC135T3 helicopters with Helionix installed, respectively.

**(d) Subject**

Joint Aircraft System Component (JASC) Code: 3197, Instrument System Wiring.

**(e) Unsafe Condition**

This AD was prompted by reports of multiple multi-function display (MFD) failures during flight. The FAA is issuing this AD to address failure of an MFD and consequent loss of display information during flight. The unsafe condition, if not addressed, could result in the unexpected loss of display of important flight parameters to the pilots, which could result in loss of control of the helicopter.

**(f) Compliance**

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

**(g) Requirements**

(1) Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, paragraphs (1), (2), (4), and (5) of European Union Aviation Safety Agency (EASA) AD 2022–0168, dated August 12, 2022 (EASA AD 2022–0168).

(2) Within 7 days after the effective date of this AD, revise the existing Rotorcraft Flight Manual (RFM) for your helicopter by incorporating the RFM emergency procedure in Figure 1 or Figure 2 to paragraph (g)(2) of this AD as applicable to your model helicopter. Revising the existing RFM for your helicopter by updating the emergency procedures section may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

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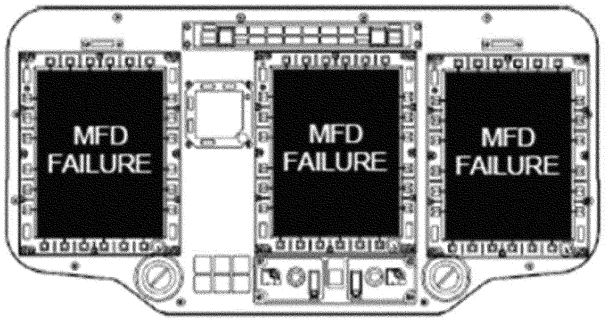
**MBB-BK117 (all models / variants)**
**Loss of all MFD**
**Page 1/2**

**Conditions/Indications**

- MFDs:




- MFD FAILURE displayed on all MFDs
- If autopilot upper modes were coupled, they may decouple after 10 seconds (indicated by an „autopilot decouple" voice message).

**Procedure**

- **ON GROUND**

1. Double engine emergency shutdown — Perform

- **IN FLIGHT**

1. Aircraft trajectory
   - Maintain using IESI and stand-by compass.
   - Use AFCS "recovery" or "go-around" modes, if desired
   - Operate aircraft within the approved performance
2. MFD2 pb — OFF

**CAUTION** IF THE MFD IS RESTARTED AT NIGHT, THE MFD WILL REBOOT WITH FULL BRIGHTNESS AND MAY DISTURB THE PILOT BRIEFLY. RESTARTING AN MFD DURING CRITICAL FLIGHT PHASES SHALL BE AVOIDED.

3. MFD2 pb — ON

If MFD2 restarts (all functions linked to MFD are recovered):

4. MFD2 — Maintain in FND format
5. LAND AS SOON AS POSSIBLE

**NOTE**
- For HTAWS to be available, SVS must be switched off (select FDS). After restarting MFD2, it takes 2 minutes before HTAWS is available.
- TCAS alerts are lost.
- Weather radar RDR2000 is lost; weather radar RDR1600 remains operational.

**MBB-BK117 (all models / variants)**
**Loss of all MFD**
**Page 2/2**

If MFD2 does not restart (all MFDs remain off):

4. VMC conditions – Establish
5. LAND AS SOON AS POSSIBLE

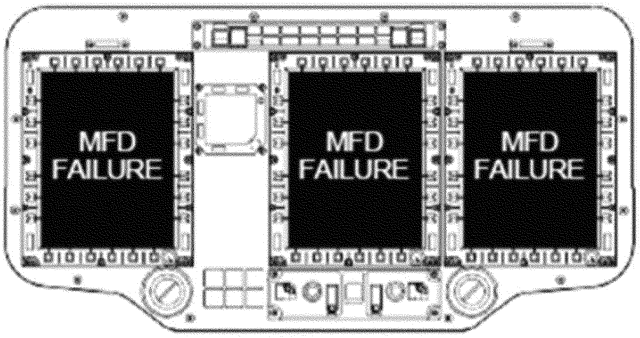
**NOTE**
- GPS navigation information can be obtained from the FMS.
- The following AFCS functions are available:
  - Basic stabilization (attitude hold)
  - AFCS "recovery" (double forward press on the AP/BKUP ON pb on the cyclic) will engage ALT, IAS, HDG/TRK modes on the current values. After engagement, individual upper modes can be disengaged through the APCP or AP UM OFF pb on cyclic grip.
  - Go-around mode will be available through the GA pb on the collective. This will engage V/S or FPA and IAS.
  - The AFCS status (engaged upper modes IAS, ALT, V/S, FPA, HDG, TRK) is visible on the APCP.
  - It is not possible to engage upper modes through the APCP.
  - It is not possible to change the upper mode references through the cyclic/collective beep or rotary knob on APCP.
- All vehicle related aural alerts (tones and voice message) remain available.
- HTAWS and TCAS aural alerts are lost.
- Transponder Mode C (altitude reporting) is lost.
- Warning unit is still operating.

**Figure 1 to Paragraph (g)(2): RFM Emergency Procedure—Model MBB–BK117 Helicopters**

**EC 135 (all models / variants)**
**Loss of all MFD**
**Page 1/2**

**Conditions/Indications**

- MFDs:




- MFD FAILURE displayed on all MFDs
- If autopilot upper modes were coupled, they may decouple after 10 seconds (indicated by an „autopilot decouple" voice message).

**Procedure**

- **ON GROUND**

1. Double engine emergency shutdown — Perform

- **IN FLIGHT**

1. Aircraft trajectory
   - Maintain using IESI and stand-by compass.
   - Use AFCS "recovery" or "go-around" modes, if desired
   - Operate aircraft within the approved performance
2. MFD2 pb — OFF

**CAUTION** IF THE MFD IS RESTARTED AT NIGHT, THE MFD WILL REBOOT WITH FULL BRIGHTNESS AND MAY DISTURB THE PILOT BRIEFLY. RESTARTING AN MFD DURING CRITICAL FLIGHT PHASES SHALL BE AVOIDED.

3. MFD2 pb — ON

If MFD2 restarts (all functions linked to MFD are recovered):

4. MFD2 — Maintain in FND format
5. LAND AS SOON AS POSSIBLE

**NOTE**
- For HTAWS to be available, SVS must be switched off (select FDS). After restarting MFD2, it takes 2 minutes before HTAWS is available.
- TCAS alerts are lost.
- Weather radar RDR2000 is lost; weather radar RDR1600 remains operational.

**EC 135 (all models / variants)**
**Loss of all MFD**
**Page 2/2**

If MFD2 does not restart (all MFDs remain off):

4. VMC conditions – Establish
5. LAND AS SOON AS POSSIBLE

NOTE
- GPS navigation information can be obtained from the FMS.
- The following AFCS functions are available:
  - Basic stabilization (attitude hold)
  - AFCS "recovery" (double forward press on the AP/BKUP ON pb on the cyclic) will engage ALT, IAS, HDG/TRK modes on the current values. After engagement, individual upper modes can be disengaged through the APCP or AP UM OFF pb on cyclic grip.
  - Go-around mode will be available through the GA pb on the collective. This will engage V/S or FPA and IAS.
  - The AFCS status (engaged upper modes IAS, ALT, V/S, FPA, HDG, TRK) is visible on the APCP.
  - It is not possible to engage upper modes through the APCP.
  - It is not possible to change the upper mode references through the cyclic/collective beep or rotary knob on APCP.
- All vehicle related aural alerts (tones and voice message) remain available.
- HTAWS and TCAS aural alerts are lost.
- Transponder Mode C (altitude reporting) is lost.
- Warning unit is still operating.

**Figure 2 to Paragraph (g)(2): RFM Emergency Procedure—Model EC135 Helicopters**

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(3) After the actions required by paragraph (g)(1) of this AD have been done, no alternative requirements (inspections) are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0168.

**(h) Exceptions to EASA AD 2022–0168**

(1) Where EASA AD 2022–0168 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2022–0168 refers to July 15, 2022 (the effective date of EASA AD 2022–0143 dated July 8, 2022) or its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2022–0168 specifies ''accomplish a check in accordance with the maintenance mode test procedure, and in accordance with the operational mode test procedure, as defined in this AD'' for this AD, replace that text with ''accomplish an inspection in accordance with the maintenance mode test procedure, and in accordance with the operational mode test procedure, as defined in this AD.''

(4) Where paragraph (2) of EASA AD 2022–0168 specifies ''if, during any check as required by paragraph (1) of this AD,'' replace that text with ''if, during any inspection as required by paragraph (1) of this AD.''

(5) Where the service information referenced in EASA AD 2022–0168 permits certain actions to be performed by a pilot or equivalent with the correct training and accreditation, this AD requires those actions to be accomplished by persons authorized under 14 CFR 43.3.

(6) Where paragraph (4) of EASA AD 2022–0168 specifies to ''inform all flight crews and, thereafter, operate the helicopter accordingly,'' this AD does not require those actions.

(7) Where the service information referenced in EASA AD 2022–0168 specifies ''If the continuity test is not satisfactory, check and repair the associated wires;'' for this AD, replace that text with ''If the continuity test is not satisfactory, inspect and repair the associated wires.''

(8) Where the service information referenced in EASA AD 2022–0168 specifies-contacting Airbus Helicopters for a technical solution, this AD requires corrective action done in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or EASA; or Airbus Helicopters Deutschland GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(i) Special Flight Permits**

Special flight permits are prohibited for flights in Instrument Meteorological Conditions (IMC) and Night Visual Meteorological Conditions (VMC).

**(j) Alternative Methods of Compliance (AMOCs)**

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

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

**(k) Related Information**

For more information about this AD, contact Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0168, dated August 12, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0168, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 10, 2023.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023–05426 Filed 3–14–23; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 73

**[Docket No. FDA–2020–C–1309]**

### Listing of Color Additives Exempt From Certification; Spirulina Extract; Confirmation of Effective Date

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA or we) is confirming the effective date of December 13, 2022, for the final rule that appeared in the **Federal Register** of November 10, 2022, and that amended the color additive regulations to provide for the safe use of spirulina (*Arthrospira platensis*) extract as a color additive in alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, condiments and sauces, dips, dairy product alternatives (identified as non-dairy yogurt alternatives, non-dairy frozen desserts, and non-dairy puddings), salad dressings, and seasoning mixes (unheated).

**DATES:** The effective date of final rule published in the **Federal Register** of November 10, 2022 (87 FR 67785) is confirmed as December 13, 2022.

**ADDRESSES:** For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Stephanie A. Hice, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–255), 5001 Campus Dr., College Park, MD 20740, 301–348–1740.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 10, 2022 (87 FR 67785), we amended the color additive regulations in § 73.530 *Spirulina extract* (21 CFR 73.530) to provide for the safe use of spirulina extract as a color additive in alcoholic beverages with less than 20 percent alcohol-by-volume content, non-alcoholic beverages, condiments and sauces, dips, dairy product alternatives (identified as non-dairy yogurt alternatives, non-dairy frozen desserts, and non-dairy puddings), salad dressings, and seasoning mixes (unheated) at levels consistent with good manufacturing practice.

We gave interested persons until December 12, 2022, to file objections or requests for a hearing. We received no objections or requests for a hearing on the final rule. Therefore, we find that the effective date of the final rule that published in the **Federal Register** of November 10, 2022, should be confirmed.

**List of Subjects in 21 CFR Part 73**

Color additives, Cosmetics, Drugs, Foods, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs, we are giving notice that no objections or requests for a hearing were filed in response to the November 10, 2022, final rule. Accordingly, the amendments issued thereby became effective December 13, 2022.

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05361 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 310

**[Docket ID: DoD–2022–OS–0082]**

**RIN 0790–AL44**

### Privacy Act of 1974; Implementation

**AGENCY:** Office of the Secretary of Defense (OSD), Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense (Department or DoD) is issuing a final rule to amend its regulations to exempt portions of the system of records titled CIG–30, ''OIG Data Analytics Platform,'' from certain provisions of the Privacy Act of 1974.

**DATES:** This rule is effective on April 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rahwa Keleta, Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark

Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700; *OSD.DPCLTD@mail.mil;* (703) 571–0070.

**SUPPLEMENTARY INFORMATION:**

**Discussion of Comments and Changes**

The proposed rule published in the **Federal Register** on July 20, 2022 (87 FR 43228–43231). Comments were accepted for 60 days until September 19, 2022. No comments were received. However, DoD is making one administrative change to § 310.28(c)(10) from the proposed rule by adding the acronym ''OIG'' to the *System identifier and name* to match the system of records notice with the same name that published in the **Federal Register** on July 20, 2022 (87 FR 43255–43258).

**I. Background**

In finalizing this rule, DoD is seeking to exempt portions of this system of records titled, CIG–30, OIG Data Analytics Platform, from certain provisions of the Privacy Act. This system of records covers DoD's maintenance of records about individuals who are subject and/or associated with a matter involved in DoD Office of the Inspector General (OIG) audits, evaluations, investigations, and reviews. The records collected will assist with the performance of audits, evaluations, investigations, and reviews of DoD programs, functions, and individuals.

**II. Privacy Act Exemption**

The Privacy Act permits Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including the provisions providing individuals with a right to request access to and amendment of their own records and accountings of disclosures of such records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process to provide public notice and an opportunity to comment on the proposed exemption. The OSD is amending 32 CFR part 310 to add a new Privacy Act exemption rule for the CIG–30, ''OIG Data Analytics Platform,'' system of records. The DoD is adding an exemption for this system of records pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2) because some of its records may contain investigatory material compiled for law enforcement purposes and classified national security information.

**Regulatory Analysis**

**Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action under these Executive Orders.

**Congressional Review Act (5 U.S.C. 804(2))**

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* 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. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the rule is published in the **Federal Register**, whichever is later. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''**

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

**Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601 et seq.)**

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency has certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is concerned only with the administration of Privacy Act systems of records within the DoD. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

**Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. 3501 et seq.)**

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local and tribal governments; and other persons resulting from the collection of information by or for the Federal government. The Act requires agencies obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons. This rule does not impose reporting or recordkeeping requirements on the public.

**Executive Order 13132, ''Federalism''**

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

**Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments''**

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or affects the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have a substantial effect on Indian tribal governments.

**List of Subjects in 32 CFR Part 310**

Privacy.

Accordingly, 32 CFR part 310 is amended as follows:

## PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDEMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

**Authority:** 5 U.S.C. 552a.

■ 2. Section 310.28 is amended by adding paragraph (c)(10) to read as follows:

**§ 310.28 Office of the Inspector General (OIG) exemptions.**

* * * * *

(c) * * *

(10) *System identifier and name.* CIG–30, ''OIG Data Analytics Platform.''

(i) *Exemptions.* This system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1); (e)(2); (e)(3); (e)(4)(G), (H), and(I); (e)(5); (e)(8); (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). This system of records is exempt from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act to the extent the records are subject to exemption pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

(ii) *Authority.* 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsections (c)(3), (d)(1), and (d)(2)—(1) Exemption (j)(2).* Records in this system of records may contain investigatory material compiled for criminal law enforcement purposes to include information identifying criminal offenders and alleged offenders, information compiled for the purpose of criminal investigation, or reports compiled during criminal law enforcement proceedings. Application of exemption (j)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement or prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties or disciplinary measures; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD's ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others.

(*2*) *Exemption (k)(1).* Records in this system of records may contain information that is properly classified pursuant to executive order. Application of exemption (k)(1) may be necessary because access to and amendment of the records, or release of the accounting of disclosures for such records, could reveal classified information. Disclosure of classified records to an individual may cause damage to national security.

(*3*) *Exemption (k)(2).* Records in this system of records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement or prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records or the accounting of records to avoid criminal penalties, civil remedies, or disciplinary measures; interfere with a civil or administrative action or investigation which may impede those actions or investigations; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD's ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others.

(B) *Subsection (c)(4), (d)(3) and (4).* These subsections are inapplicable to the extent that an exemption is being claimed from subsections (d)(1) and (2). Accordingly, exemption from subsection (c)(4) is claimed pursuant to (j)(2) and exemptions from subsections (d)(3) and (d)(4) are claimed pursuant to (j)(2), (k)(1), and (k)(2).

(C) *Subsection (e)(1).* In the collection of information for investigatory and law enforcement purposes it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required disciplinary and prosecutorial determinations. Additionally, records within this system may be properly classified pursuant to executive order. Accordingly, application of exemptions (j)(2), (k)(1), and (k)(2) may be necessary.

(D) *Subsection (e)(2).* To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations. Collection of information only from the individual accused of criminal activity or misconduct could also subvert discovery of relevant evidence and subvert the course of justice. Accordingly, application of exemption (j)(2) may be necessary.

(E) *Subsection (e)(3).* To inform individuals as required by this subsection could reveal the existence of a criminal investigation and compromise investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(F) *Subsection (e)(4)(G) and (H).* These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2).

(G) *Subsection (e)(4)(I).* To the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect the privacy and physical safety of witnesses and informants. Accordingly, application of exemptions (j)(2), (k)(1), and (k)(2) may be necessary.

(H) *Subsection (e)(5).* It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to maintain an accurate record of the investigatory activity to preserve the integrity of the investigation and satisfy various Constitutional and evidentiary requirements, such as mandatory disclosure of potentially exculpatory information in the investigative file to a defendant. It is also necessary to retain this information to aid in establishing patterns of activity and provide investigative leads. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined through judicial processes. Accordingly, application of exemption (j)(2) may be necessary.

(I) *Subsection (e)(8).* To serve notice could give persons sufficient warning to evade investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(J) *Subsection (f).* The agency's rules are inapplicable to those portions of the system that are exempt. Accordingly, application of exemptions (j)(2), (k)(1), and (k)(2) may be necessary.

(K) *Subsection (g).* This subsection is inapplicable to the extent that the

system is exempt from other specific subsections of the Privacy Act. Accordingly, an exemption from subsection (g) is claimed pursuant to (j)(2).

(iv) *Exempt records from other systems.* In the course of carrying out the overall purpose for this system, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the prior system(s) of which they are a part, provided the reason for the exemption remains valid and necessary.

Dated: March 13, 2023.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2023–05378 Filed 3–15–23; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 110

**[Docket Number USCG–2019–0952]**

**RIN 1625–AA01**

## Anchorage Regulations; Special Anchorages Areas Within the First Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The First Coast Guard District is removing notes from its special anchorage area regulations and removing language from the text of four of these regulations because those provisions are inconsistent with simply designating the location of a special anchorage area. These existing notes and regulatory text provisions, which contain obsolete and duplicative language, will be replaced with a note in a new section we are adding that will apply to all special anchorage area regulations in the First Coast Guard District. The note will advise interested persons that state and local regulations may apply and that they should contact other authorities, such as the local harbormaster, to ensure compliance with any such applicable regulations. These changes are primarily editorial in nature and are intended to clarify and update First Coast Guard District special anchorage area regulations. This rule will not create, remove, or change any previously established special anchorage areas in the First Coast Guard District.

**DATES:** This rule is effective April 17, 2023

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0952 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, contact Mr. Craig Lapiejko, Waterways Management at First Coast Guard District, telephone 617–223–8351, email *craig.d.lapiejko@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
SAA Special Anchorage Area
§ Section
U.S.C. United States Code

### II. Background Information and Regulatory History

On July 17, 2019, the First Coast Guard District received a request to remove the note in 33 CFR 110.32—Hingham Harbor, Hingham, Massachusetts. This regulation, note included, was added to 33 CFR part 110 soon after the Coast Guard was authorized Federal anchorage regulations more than 50 years ago. In response, on April 8, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Anchorage Regulations; Special Anchorages Areas within the First Coast Guard District'' (86 FR 18224). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the revision of the notes. During the comment period that ended on June 7, 2021, we received one comment.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1. The First Coast Guard District Commander has determined that revising the notes for its special anchorage area (SAA) regulations and to remove language from the text of four of these regulations because those provisions are inconsistent with simply designating the location of a special anchorage area.

### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published April 8, 2021.

The commenter disagreed that the changes were primarily editorial in nature and that they were intended to clarify and update the notes. The commenter further provided that the town had relied on the notes to enforce a prohibition on fixed piles or stakes for the past 50 years. The commenter requested that any proposed change to the notes currently cited in the CFR for Hingham Harbor SAAs be exempted from those changes. As we stated in our April 8, 2021, NPRM, in general, there is a misunderstanding of the Coast Guard's authority with regard to special anchorage grounds. The Coast Guard does not regulate vessel activities within SAAs as it does in anchorage grounds. The only effect of designating a SAA under the authority of 33 U.S.C. 2071 is that vessels under 20 meters in length (65 feet) anchored in these areas do not have to exhibit the lights, shapes or sounds signals required by Rule 30 and 35 of the Inland Navigation Rules. Other vessels active within these SAA may be regulated by local authorities as long as local regulations do not conflict with Federal regulations which may be promulgated under other statutory authority. The Town of Hingham, similar to other State and/or local governments, promulgated ordinances and those ordinances were often cited as notes within some SAA regulations, but those notes were incorrectly interpreted as federal regulations. In a rule published August 3, 1968 (33FR 11079), the Coast Guard added § 110.32 to 33 CFR part 110 which created five separate SAAs in Hingham Harbor, MA. That regulation was issued in response to a request from the Chairman of the Board of Selectmen of Hingham, MA. The note in that regulation said that:

- These areas will be principally used by yachts and other recreational craft.
- Temporary floats or buoys for marking anchors will be allowed in the areas but fixed piles or stakes may not be placed.
- The anchoring of vessels and the placing of moorings in these areas will be under the jurisdiction of the local Harbor Master.

The inclusion of these references to ordinances in Part 110 is not desirable as it appears that the Coast Guard has adopted similar provisions into the federal regulations. As such, the Coast Guard is removing the note from the regulation. The Coast Guard interprets the note as indicating that the rule itself

would not forbid the installation of piles or stakes in Hingham Harbor.

In the regulatory text, we did amend the instruction for § 110.30, to correct the reference to where the three notes to be removed in that section were located. Also, we updated the authority citation for Part 110 to reflect that Section 8501 the William M. (Mac) Thornberry National Defense Authorization Act, Public Law 116–283, transferred Section 7 Rivers and Harbors Appropriations Act of 1915 authority for anchorage grounds to 46 U.S.C. 70006, and the reference to the edition of the Department of Homeland Security delegation.

This rule will remove existing notes in regulations for SAAs in the First Coast Guard District and removes the regulatory provisions in §§ 110.25, 110.29, 110.50d, and 110.60 that do not designate the location of SAAs. Additionally, we are adding § 110.3, entitled, ''First Coast Guard District Special Anchorage Areas.'' Its text identifies SAA regulations for the First Coast Guard District (§ 110.4 through § 110.60) and its note advises those planning to use a SAA in the First District that state ordinances, local ordinances, or both, may apply to those anchoring there and that the local harbormaster is often the best source of information about any such ordinances. These ordinances may involve, for example, compliance with direction from the local harbormaster when placing or using moorings within the anchorage.

These changes are primarily editorial in nature and are intended to clarify and update the notes in this part. This rule does not create, remove, or change any SAA. Vessels less than 65 feet in length, when at anchor in these SAAs, are not required to sound signals or display anchorage lights or shapes when at anchor.

This rule will remove notes from the following sections in 33 CFR part 110 that designate SAAs in the First Coast Guard District:

Section 110.4, Penobscot Bay, Maine.
Section 110.5, Casco Bay, Maine.
Section 110.6, Portland Harbor, Portland, Maine (between Little Diamond Island and Great Diamond Island).
Section 110.8, Lake Champlain, New York and Vermont.
Section 110.26, Marblehead Harbor, Marblehead, Massachusetts.
Section 110.29, Boston Inner Harbor, Massachusetts.
Section 110.30, Boston Harbor, Massachusetts.
Section 110.31, Hull Bay and Allerton Harbor at Hull, Massachusetts.
Section 110.32, Hingham Harbor, Hingham, Massachusetts.
Section 110.37, Sesuit Harbor, Dennis, Massachusetts.
Section 110.38, Edgartown Harbor, Massachusetts.
Section 110.45a, Mattapoisett Harbor, Mattapoisett, Massachusetts.
Section 110.50, Stonington Harbor, Connecticut.
Section 110.50a, Fishers Island Sound, Stonington, Connecticut.
Section 110.50b, Mystic Harbor, Groton and Stonington, Connecticut.
Section 110.50c, Mumford Cove, Groton, Connecticut.
Section 110.51, Groton, Connecticut.
Section 110.52, Thames River, New London, Connecticut.
Section 110.53, Niantic, Connecticut.
Section 110.55, Connecticut River, Connecticut.
Section 110.55a, Five Mile River, Norwalk and Darien, Connecticut.
Section 110.55b, Connecticut River, Old Saybrook, Connecticut.
Section 110.56, Noroton Harbor, Darien, Connecticut.
Section 110.58, Cos Cob Harbor, Greenwich, Connecticut.
Section 110.59, Eastern Long Island, New York.
Section 110.60, Captain of the Port, New York.

For a specific listing of the notes being removed, please review the regulatory text at the end of this rule.

Additionally, this rule removes regulatory text from four CFR sections because that text is inconsistent with simply designating the location of a SAA. In § 110.25, Salem Sound, Massachusetts, we are removing the last two sentences of paragraph (c). In § 110.29, Boston Inner Harbor, Massachusetts, we are removing paragraph (d)(2). In § 110.50d, Mystic Harbor, Noank, Connecticut, we are removing paragraph (b). Finally, in § 110.60, Captain of the Port, New York; we are removing paragraphs (c)(13)(i), (d)(7)(i), and (d)(9)(i).

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

These changes are primarily editorial in nature and are intended to clarify and update notes for First Coast Guard District SAA regulations and to remove regulatory text in four CFR sections that is not needed to designate the location of SAAs. This rule will not create, remove, or change any previously established SAAs in the First Coast Guard District

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. We reach this conclusion based on the reasons stated in section IV.A above.

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

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

### *C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule will remove existing notes in regulations for SAAs in the First Coast Guard District and remove regulatory text in four CFR sections that is not needed to designate the location of SAAs. These existing notes and provisions in regulatory text, will be replaced with a note in a newly added section that will apply to all SAA regulations in the First Coast Guard District. The note will advise those planning to use a SAA in the First Coast Guard District that state ordinances, local ordinances, or both, may apply to those anchoring there and that the local harbormaster is often the best source of information about any such ordinances. It is categorically excluded from further review under paragraph A3 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

**List of Subjects in 33 CFR Part 110**

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

## PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 is revised to read as follows:

**Authority:** 33 U.S.C. 2071; 46 U.S.C. 70006, 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 110.3 to read as follows:

**§ 110.3 First Coast Guard District Special Anchorage Areas.**

Regulations designating special anchorage areas in the First Coast Guard District appear in §§ 110.4 through 110.60.

**Note 1 to § 110.3:** Those planning to use these special anchorage areas are advised that state ordinances, local ordinances, or both, may apply. The local harbormaster is often the best source of information about any such ordinances.

**§ 110.4 [Amended]**

■ 3. In § 110.4, remove the notes to paragraph (a), (b), (c) and (d).

**§ 110.5 [Amended]**

■ 4. In § 110.5, remove the notes following paragraphs (a–1), (d), (e) and (f).

**§ 110.6 [Amended]**

■ 5. In § 110.6, remove the note at the end of the section.

**§ 110.8 [Amended]**

■ 6. In § 110.8, remove the notes following paragraphs (c–2) and (i).

**§ 110.25 [Amended]**

■ 7. In § 110.25, remove the last two sentences in paragraph (c).

**§ 110.26 [Amended]**

■ 8. In § 110.26, remove the note at the end of the section.

**§ 110.29 [Amended]**

■ 9. In § 110.29(d), remove the designation ''(1)'', remove paragraph (d)(2), and remove the note to paragraph (d).

**§ 110.30 [Amended]**

■ 10. In § 110.30, remove the note to paragraph (h), the note to paragraphs (j), (k), and (l) and the note to paragraphs (m), (n), (o), (p) and (q).

**§ 110.31 [Amended]**

■ 11. In § 110.31, remove the note at the end of the section.

**§ 110.32 [Amended]**

■ 12. In § 110.32, remove the note at the end of the section.

**§ 110.37 [Amended]**

■ 13. In § 110.37, remove the note at the end of the section.

**§ 110.38 [Amended]**

■ 14. In § 110.38, remove the note at the end of the section.

**§ 110.45a [Amended]**

■ 15. In § 110.45a, remove the note at the end of the section.

**§ 110.50 [Amended]**

■ 16. In § 110.50, remove the note at the end the section.

**§ 110.50a [Amended]**

■ 17. In § 110.50a, remove the note at the end of the section.

**§ 110.50b [Amended]**

■ 18. In § 110.50b, remove the note at the end of the section.

**§ 110.50c [Amended]**

■ 19. In § 110.50c, remove the note at the end of the section.

**§ 110.50d [Amended]**

■ 20. In § 110.50d, redesignate paragraph (a) as an undesignated paragraph and remove paragraph (b).

**§ 110.51 [Amended]**

■ 21. In § 110.51, remove the note at the end of the section.

**§ 110.52 [Amended]**

■ 22. In § 110.52, remove the note at the end of the section.

**§ 110.53 [Amended]**

■ 23. In § 110.53, remove the note at the end of the section.

**§ 110.55 [Amended]**

■ 24. In § 110.55, remove the notes following paragraphs (b), (c), (e), (e–1), (e–2) and (g).

**§ 110.55a [Amended]**

■ 25. In § 110.55a, remove the note at the end of the section.

**§ 110.55b [Amended]**

■ 26. In § 110.55b, remove the note at the end of the section.

**§ 110.56 [Amended]**

■ 27. In § 110.56, remove the note at the end of the section.

**§ 110.58 [Amended]**

■ 28. In § 110.58, remove the note at the end of the section.

**§ 110.59 [Amended]**

■ 29. In § 110.59, remove the note following paragraph (g).

**§ 110.60 [Amended]**

■ 30. In § 110.60, remove the notes to paragraphs (a)(2) and (13); (b)(5) and (6); (c)(3); (5) and (6); (d)(2), and (5), and remove paragraphs (c)(13)(i) and (ii), (d)(7)(i) and (ii), and (d)(9)(i) and (ii).

Dated: March 3, 2023.

**J.W. Mauger,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 2023–04928 Filed 3–15–23; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2023–0143]**

## Safety Zone; Southern California Annual Firework Events for the San Diego Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zones for the Big Bay Boom Fourth of July Fireworks on the waters of San Diego Bay, CA on Tuesday, July 4, 2023. The safety zones are necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated areas for this event. During the enforcement period, spectators may not anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated areas without the approval of the Captain of the Port, or his designated representative.

**DATES:** The regulations in 33 CFR 165.1123 will be enforced from 8 p.m. until 10 p.m. on July 4, 2023 for the locations described in Item No. 5 in Table 1 to § 165.1123.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email Lieutenant Junior Grade Shera Kim, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone regulations in 33 CFR 165.1123 for the Big Bay Boom Fourth of July Fireworks regulated area, for the locations described in Table 1 to § 165.1123, Item No. 5 of that section from 8 p.m. until 10 p.m. on July 4, 2023. This action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone, Item No. 5 in Table 1 to § 165.1123, identifies the regulated areas for the Big Bay Boom Fourth of July Fireworks event which encompasses multiple portions of San Diego Bay. Under the provisions of § 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

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

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: March 8, 2023.

**J.W. Spitler,**

*Captain, U. S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2023–05324 Filed 3–15–23; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2023–0193]**

**RIN 1625–AA00**

## Safety Zone, Point Mugu Airshow, Naval Base Ventura County, California

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The U.S. Coast Guard is establishing a safety zone over the waters near Naval Base Ventura County, Point Mugu, CA, in support of the Point Mugu Airshow. This action is necessary to provide for the safety of life on these navigable waters in the area near the air demonstrations and to provide an emergency landing area for the event. This regulation prohibits vessels from entering into, transiting through, or remaining within the designated area unless specifically authorized by the Captain of the Port, Sector Los Angeles–Long Beach (COTP), or a designated representative.

**DATES:** This rule is effective from noon on March 17, 2023, through 5 p.m. on March 19, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0193 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email LCDR Maria Wiener, U.S. Coast Guard Sector Los Angeles–Long Beach; telephone (310) 521–3860, email *D11-SMB-SectorLALB-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to

comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until Feburary 9, 2023. There was insufficient time to undergo the full rulemaking process, including providing a reasonable comment period and considering those comments, because the Coast Guard must establish this temporary safety zone by March 17, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to address potentially hazardous conditions associated with an aircraft emergency landing area.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U. S. C. 70034. The COTP has determined that a safety zone is necessary due to potential hazards associated with this event. The sponsor will be conducting an air show in vicinity of the Point Mugu, Ventura County, CA. The COTP has determined that this safety zone is necessary to ensure the safety of, and reduce the risk to, the public, and mariners, in the vicinity of the aerobatic performance because the area of water within the zone will serve as an emergency landing area for aircraft.

## IV. Discussion of the Rule

This rule establishes a safety zone from noon on March 17, 2023, through 5 p.m. on March 19, 2023. Based on the safety risks described above, the Coast Guard is proposing to establish a safety zone to serve as an emergency landing area for aircraft in the vicinity of Point Mugu for the Point Mugu Air Show. The safety zone would encompass all navigable waters from the surface to the sea floor in an area bound by the following coordinates: 34°06′27″ N; 119°08′29″ W, 34°06′20″ N; 119°8′13″ W, 34°06′15″ N; 119°8′38″ W, 34°06′06″ N; 119°8′26″ W. All coordinates displayed are referenced by North American Datum of 1983, World Geodetic System, 1984.

During the enforcement period, vessels are prohibited from entering into, transiting through, or remaining within the designated area unless authorized by the COTP or their designated representative. The general boating public will be notified prior to the enforcement of the safety zone via Broadcast Notice to Mariners. No vessel or person is permitted to operate in the safety zone without obtaining permission from COTP or the COTP's designated representative. A designated representative means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the COTP in the enforcement of the safety zone. To seek permission to enter, hail Coast Guard Sector Los Angeles–Long Beach on VHF–FM Channel 16 or (310) 521–3801. Upon being hailed by a Coast Guard vessel or designated representative by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The size of the zone is the minimum necessary to provide adequate protection for the waterway users, adjoining areas, and the public. The zone will be enforced during the scheduled times of noon to 5:00 p.m. on three days. Commercial vessel traffic will not be affected by the establishment of the safety zone due to its overall proximity to the shore. Recreational water users will be able to transit around the safety zone.

### *B. Impact on Small Entities*

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,

because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing an area in vicinity of Point Mugu, CA. It is categorically excluded from further review under paragraph L60(a), in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. An environmental analysis and checklist supporting this determination and Record of Environmental Consideration (REC) are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

*G. Protest Activities*

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

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–123 to read as follows:

**§ 165.T11–123 Safety Zone; Point Mugu Airshow, Naval Base Ventura County, California.**

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates: 34°06′27″ N; 119°08′29″ W, 34°06′20″ N; 119°8′13″ W, 34°06′15″ N; 119°8′38″ W, 34°06′06″ N;119°8′26″ W. All coordinates displayed are referenced by North American Datum of 1983, World Geodetic System, 1984.

(b) *Definitions.* For the purposes of this section:

*Designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the Captain of the Port Los Angeles–Long Beach (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, hail Coast Guard Sector Los Angeles–Long Beach on VHF–FM Channel 16 or call at (310) 521–3801. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) Upon being hailed by the COTP's designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(d) *Enforcement period.* The temporary safety zone will be enforced from noon to 5 p.m. each day from March 17, 2023, to March 19, 2023.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone via Local Notices to Mariners.

Dated: March 13, 2023.

**R.D. Manning,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Los Angeles–Long Beach.*

[FR Doc. 2023–05391 Filed 3–15–23; 8:45 am]

**BILLING CODE 9110–04–P**

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 202

## Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Statement of policy.

**SUMMARY:** The Copyright Office issues this statement of policy to clarify its practices for examining and registering works that contain material generated by the use of artificial intelligence technology.

**DATES:** This statement of policy is effective March 16, 2023.

**FOR FURTHER INFORMATION CONTACT:** Rhea Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov* or telephone at 202–707–8350.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Copyright Office (the ''Office'') is the Federal agency tasked with administering the copyright registration system, as well as advising Congress, other agencies, and the Federal judiciary on copyright and related matters.[1] Because the Office has overseen copyright registration since its origins in 1870, it has developed substantial experience and expertise regarding ''the distinction between copyrightable and noncopyrightable works.'' [2] The Office

[1] *See* 17 U.S.C. 408 (copyright registration requires delivering deposit, application, and fee to Copyright Office), 701(a) (all administrative functions and duties set out in Title 17 are the responsibility of the Register of Copyrights), 701(b)(2) (the Register's duties include providing ''information and assistance'' to Federal agencies and courts on copyright and related matters).

[2] *Norris Indus.* v. *Int'l Tel. & Tel. Corp.,* 696 F.2d 918, 922 (11th Cir. 1983). For this reason, courts credit the Office's expertise in interpreting the Copyright Act, particularly in the context of registration. *See, e.g., Esquire, Inc.* v. *Ringer,* 591 F.2d 796, 801–02 (D.C. Cir. 1978) (giving ''considerable weight'' to the Register's refusal determination); *Varsity Brands, Inc.* v. *Star Athletica, LLC,* 799 F.3d 468, 480 (6th Cir. 2015) (''the Copyright Office's expertise in identifying and thinking about the difference between art and function surpasses ours''), *aff'd on other grounds,* 580 U.S. 405 (2017).

is empowered by the Copyright Act to establish the application used by applicants seeking registration of their copyrighted works.[3] While the Act identifies certain minimum requirements, the Register may determine that additional information is necessary for the Office to evaluate the ''existence, ownership, or duration of the copyright.'' [4] Because the Office receives roughly half a million applications for registration each year, it sees new trends in registration activity that may require modifying or expanding the information required to be disclosed on an application.

One such recent development is the use of sophisticated artificial intelligence (''AI'') technologies capable of producing expressive material.[5] These technologies ''train'' on vast quantities of preexisting human-authored works and use inferences from that training to generate new content. Some systems operate in response to a user's textual instruction, called a ''prompt.'' [6] The resulting output may be textual, visual, or audio, and is determined by the AI based on its design and the material it has been trained on. These technologies, often described as ''generative AI,'' raise questions about whether the material they produce is protected by copyright, whether works consisting of both human-authored and AI-generated material may be registered, and what information should be provided to the Office by applicants seeking to register them.

These are no longer hypothetical questions, as the Office is already receiving and examining applications for registration that claim copyright in AI-generated material. For example, in 2018 the Office received an application for a visual work that the applicant described as ''autonomously created by a computer algorithm running on a machine.'' [7] The application was denied because, based on the applicant's representations in the application, the examiner found that the work contained no human authorship. After a series of administrative appeals, the Office's Review Board issued a final determination affirming that the work could not be registered because it was made ''without any creative contribution from a human actor.'' [8]

More recently, the Office reviewed a registration for a work containing human-authored elements combined with AI-generated images. In February 2023, the Office concluded that a graphic novel [9] comprised of human-authored text combined with images generated by the AI service Midjourney constituted a copyrightable work, but that the individual images themselves could not be protected by copyright.[10]

The Office has received other applications that have named AI technology as the author or co-author of the work or have included statements in the ''Author Created'' or ''Note to Copyright Office'' sections of the application indicating that the work was produced by or with the assistance of AI. Other applicants have not disclosed the inclusion of AI-generated material but have mentioned the names of AI technologies in the title of the work or the ''acknowledgments'' section of the deposit.

Based on these developments, the Office concludes that public guidance is needed on the registration of works containing AI-generated content. This statement of policy describes how the Office applies copyright law's human authorship requirement to applications to register such works and provides guidance to applicants.

The Office recognizes that AI-generated works implicate other copyright issues not addressed in this statement. It has launched an agency-wide initiative to delve into a wide range of these issues. Among other things, the Office intends to publish a notice of inquiry later this year seeking public input on additional legal and policy topics, including how the law should apply to the use of copyrighted works in AI training and the resulting treatment of outputs.

## II. The Human Authorship Requirement

In the Office's view, it is well-established that copyright can protect only material that is the product of human creativity. Most fundamentally, the term ''author,'' which is used in both the Constitution and the Copyright Act, excludes non-humans. The Office's registration policies and regulations reflect statutory and judicial guidance on this issue.

In its leading case on authorship, the Supreme Court used language excluding non-humans in interpreting Congress's constitutional power to provide ''authors'' the exclusive right to their ''writings.'' [11] In *Burrow-Giles Lithographic Co.* v. *Sarony,* a defendant accused of making unauthorized copies of a photograph argued that the expansion of copyright protection to photographs by Congress was unconstitutional because ''a photograph is not a writing nor the production of an author'' but is instead created by a camera.[12] The Court disagreed, holding that there was ''no doubt'' the Constitution's Copyright Clause permitted photographs to be subject to copyright, ''so far as they are representatives of original intellectual conceptions of the author.'' [13] The Court defined an ''author'' as ''he to whom anything owes its origin; originator; maker; one who completes a work of science or literature.'' [14] It repeatedly referred to such ''authors'' as human, describing authors as a class of ''persons'' [15] and a copyright as ''the exclusive right of a man to the production of his own genius or intellect.'' [16]

Federal appellate courts have reached a similar conclusion when interpreting the text of the Copyright Act, which provides copyright protection only for ''works of authorship.'' [17] The Ninth Circuit has held that a book containing words ''authored by non-human spiritual beings'' can only qualify for

[3] 17 U.S.C. 409.

[4] *Id.* at 409(10).

[5] The term ''expressive material'' is used here to refer to AI output that, if it had been created by a human, would fall within the subject matter of copyright as defined in section 102 of the Act. *See id.* at 102(a).

[6] *See Prompts,* Midjourney, *https://docs.midjourney.com/docs/prompts* (noting for users of the artificial intelligence service Midjourney a prompt is ''a short text phrase that the Midjourney [service] uses to produce an image''). To be clear, this policy statement is not limited to AI technologies that accept text ''prompts'' or to technologies permitting prompts of a particular length or complexity.

[7] U.S. Copyright Office Review Board, *Decision Affirming Refusal of Registration of a Recent Entrance to Paradise* at 2 (Feb. 14, 2022), *https://www.copyright.gov/rulings-filings/review-board/docs/a-recent-entrance-to-paradise.pdf.*

[8] *Id.* at 2–3. The Office's decision is currently being challenged in *Thaler* v. *Perlmutter,* Case No. 1:22–cv–01564 (D.D.C.).

[9] On the application, the applicant described the work as a ''comic book.'' *See* U.S. Copyright Office, *Cancellation Decision re: Zarya of the Dawn (VAu001480196)* at 2 (Feb. 21, 2023), *https://www.copyright.gov/docs/zarya-of-the-dawn.pdf.*

[10] *Id.*

[11] U.S. Const. art. I, sec. 8, cl. 8 (Congress has the power ''[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.'').

[12] 111 U.S. 53, 56 (1884) (explaining that the defendant had argued that photographs were merely ''reproduction on paper of the exact features of some natural object or of some person'').

[13] *Id.* at 58.

[14] *Id.* at 57–58.

[15] *Id.* at 56 (describing beneficiaries of the Constitution's Copyright Clause as ''authors,'' who are one of ''two classes'' of ''persons'').

[16] *Id.* at 58; *see also id.* at 60–61 (agreeing with an English decision describing an ''author'' as the ''person'' who was ''the cause of the picture which is produced'' and ''the man'' who creates or gives effect to the idea in the work).

[17] 17 U.S.C. 102(a).

copyright protection if there is ''human selection and arrangement of the revelations.'' [18] In another case, it held that a monkey cannot register a copyright in photos it captures with a camera because the Copyright Act refers to an author's ''children,'' ''widow,'' ''grandchildren,'' and ''widower,''—terms that ''all imply humanity and necessarily exclude animals.'' [19]

Relying on these cases among others, the Office's existing registration guidance has long required that works be the product of human authorship. In the 1973 edition of the Office's *Compendium of Copyright Office Practices,* the Office warned that it would not register materials that did not ''owe their origin to a human agent.'' [20] The second edition of the *Compendium,* published in 1984, explained that the ''term 'authorship' implies that, for a work to be copyrightable, it must owe its origin to a human being.'' [21] And in the current edition of the *Compendium,* the Office states that ''to qualify as a work of 'authorship' a work must be created by a human being'' and that it ''will not register works produced by a machine or mere mechanical process that operates randomly or automatically without any creative input or intervention from a human author.'' [22]

## III. The Office's Application of the Human Authorship Requirement

As the agency overseeing the copyright registration system, the Office has extensive experience in evaluating works submitted for registration that contain human authorship combined with uncopyrightable material, including material generated by or with the assistance of technology. It begins by asking ''whether the 'work' is basically one of human authorship, with the computer [or other device] merely being an assisting instrument, or whether the traditional elements of authorship in the work (literary, artistic, or musical expression or elements of selection, arrangement, etc.) were actually conceived and executed not by man but by a machine.'' [23] In the case of works containing AI-generated material, the Office will consider whether the AI contributions are the result of ''mechanical reproduction'' or instead of an author's ''own original mental conception, to which [the author] gave visible form.'' [24] The answer will depend on the circumstances, particularly how the AI tool operates and how it was used to create the final work.[25] This is necessarily a case-by-case inquiry.

If a work's traditional elements of authorship were produced by a machine, the work lacks human authorship and the Office will not register it.[26] For example, when an AI technology receives solely a prompt [27] from a human and produces complex written, visual, or musical works in response, the ''traditional elements of authorship'' are determined and executed by the technology—not the human user. Based on the Office's understanding of the generative AI technologies currently available, users do not exercise ultimate creative control over how such systems interpret prompts and generate material. Instead, these prompts function more like instructions to a commissioned artist—they identify what the prompter wishes to have depicted, but the machine determines how those instructions are implemented in its output.[28] For example, if a user instructs a text-generating technology to ''write a poem about copyright law in the style of William Shakespeare,'' she can expect the system to generate text that is recognizable as a poem, mentions copyright, and resembles Shakespeare's style.[29] But the technology will decide the rhyming pattern, the words in each line, and the structure of the text.[30] When an AI technology determines the expressive elements of its output, the generated material is not the product of human authorship.[31] As a result, that material is not protected by copyright and must be disclaimed in a registration application.[32]

In other cases, however, a work containing AI-generated material will also contain sufficient human authorship to support a copyright claim. For example, a human may select or arrange AI-generated material in a sufficiently creative way that ''the resulting work as a whole constitutes an original work of authorship.'' [33] Or an artist may modify material originally

[18] *Urantia Found.* v. *Kristen Maaherra,* 114 F.3d 955, 957–59 (9th Cir. 1997) (internal punctuation omitted) (holding that ''some element of human creativity must have occurred in order for the Book to be copyrightable'' because ''it is not creations of divine beings that the copyright laws were intended to protect''). While the compilation of the book was entitled to copyright, the alleged ''divine messages'' were not. *Id.*

[19] *Naruto* v. *Slater,* 888 F.3d 418, 426 (9th Cir. 2018), *decided on other grounds.*

[20] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 2.8.3(I)(a)(1)(b) (1st ed. 1973), *https://copyright.gov/history/comp/compendium-one.pdf* (providing example of shapes formed by liquid petroleum); *see also* U.S. Copyright Office, *Sixty-Eighth Annual Report of the Register of Copyrights for the Fiscal Year Ending June 30, 1965,* at 5 (1966), *https://www.copyright.gov/reports/annual/archive/ar-1965.pdf* (noting that computer-generated works raise a ''crucial question'' of whether the work ''is basically one of human authorship'').

[21] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 202.02(b) (2d ed. 1984), *https://www.copyright.gov/history/comp/compendium-two.pdf* (explaining that as a result, ''[m]aterials produced solely by nature, by plants, or by animals are not copyrightable''). It went on to state that because ''a work must be the product of human authorship,'' works ''produced by mechanical processes or random selection without any contribution by a human author are not registrable.'' *Id.* at 503.03(a).

[22] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 313.2 (3d ed. 2021) (''*Compendium (Third)*'').

[23] *Id.* (quoting U.S. Copyright Office, *Sixty-Eighth Annual Report of the Register of Copyrights for the Fiscal Year Ending June 30, 1965,* at 5 (1966)).

[24] *Sarony* 111 U.S. at 60.

[25] Many technologies are described or marketed as ''artificial intelligence,'' but not all of them function the same way for purposes of copyright law. For that reason, this analysis will be fact specific.

[26] This includes situations where an AI technology is developed such that it generates material autonomously without human involvement. *See* U.S. Copyright Office Review Board, *Decision Affirming Refusal of Registration of a Recent Entrance to Paradise* at 2–3 (Feb. 14, 2022), *https://www.copyright.gov/rulings-filings/review-board/docs/a-recent-entrance-to-paradise.pdf* (determining a work ''autonomously created by artificial intelligence without any creative contribution from a human actor'' was ''ineligible for registration'').

[27] While some prompts may be sufficiently creative to be protected by copyright, that does not mean that material generated from a copyrightable prompt is itself copyrightable.

[28] One image-generating AI product describes prompts as ''influencing'' the output but does not suggest the prompts dictate or control it. *See Prompts,* Midjourney, *https://docs.midjourney.com/docs/prompts* (explaining that short text prompts cause ''each word [to have] a more powerful *influence*'' and that images including in a prompt may ''*influence* the style and content of the finished result'') (emphasis added).

[29] AI technologies do not always operate precisely as instructed. For example, a text-generating tool prompted to provide factual information may provide inaccurate information. One AI service describes this as the AI ''mak[ing] up facts or 'hallucinat[ing]' outputs.'' *ChatGPT General FAQ,* OpenAI, *https://help.openai.com/en/articles/6783457-chatgpt-general-faq. See also* James Romoser, *No, Ruth Bader Ginsburg did not dissent in Obergefell—and other things ChatGPT gets wrong about the Supreme Court,* SCOTUSblog (Jan. 26, 2023), *https://www.scotusblog.com/2023/01/no-ruth-bader-ginsburg-did-not-dissent-in-obergefell-and-other-things-chatgpt-gets-wrong-about-the-supreme-court/.*

[30] Some technologies allow users to provide iterative ''feedback'' by providing additional prompts to the machine. For example, the user may instruct the AI to revise the generated text to mention a topic or emphasize a particular point. While such instructions may give a user greater influence over the output, the AI technology is what determines how to implement those additional instructions.

[31] *See id.* at 61 (quoting British decision by Lord Justice Cotton describing an author as the person ''who has actually formed the picture'').

[32] *See Compendium* (*Third*) sec. 503.5 (a copyright registration ''does not cover any unclaimable material that the work may contain,'' and applicants ''should exclude that material from the claim'').

[33] 17 U.S.C. 101 (definition of ''compilation''). In the case of a compilation including AI-generated material, the computer-generated material will not be protected outside of the compilation.

generated by AI technology to such a degree that the modifications meet the standard for copyright protection.[34] In these cases, copyright will only protect the human-authored aspects of the work, which are ''independent of'' and do ''not affect'' the copyright status of the AI-generated material itself.[35]

This policy does not mean that technological tools cannot be part of the creative process. Authors have long used such tools to create their works or to recast, transform, or adapt their expressive authorship. For example, a visual artist who uses Adobe Photoshop to edit an image remains the author of the modified image,[36] and a musical artist may use effects such as guitar pedals when creating a sound recording. In each case, what matters is the extent to which the human had creative control over the work's expression and ''actually formed'' the traditional elements of authorship.[37]

## IV. Guidance for Copyright Applicants

Consistent with the Office's policies described above, applicants have a duty to disclose the inclusion of AI-generated content in a work submitted for registration and to provide a brief explanation of the human author's contributions to the work. As contemplated by the Copyright Act, such disclosures are ''information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.'' [38]

### *A. How To Submit Applications for Works Containing AI-Generated Material*

Individuals who use AI technology in creating a work may claim copyright protection for their own contributions to that work. They must use the Standard Application,[39] and in it identify the author(s) and provide a brief statement in the ''Author Created'' field that describes the authorship that was contributed by a human. For example, an applicant who incorporates AI-generated text into a larger textual work should claim the portions of the textual work that is human-authored. And an applicant who creatively arranges the human and non-human content within a work should fill out the ''Author Created'' field to claim: ''Selection, coordination, and arrangement of [describe human-authored content] created by the author and [describe AI content] generated by artificial intelligence.'' Applicants should not list an AI technology or the company that provided it as an author or co-author simply because they used it when creating their work.

AI-generated content that is more than *de minimis* should be explicitly excluded from the application.[40] This may be done in the ''Limitation of the Claim'' section in the ''Other'' field, under the ''Material Excluded'' heading. Applicants should provide a brief description of the AI-generated content, such as by entering ''[description of content] generated by artificial intelligence.'' Applicants may also provide additional information in the ''Note to CO'' field in the Standard Application.

Applicants who are unsure of how to fill out the application may simply provide a general statement that a work contains AI-generated material. The Office will contact the applicant when the claim is reviewed and determine how to proceed. In some cases, the use of an AI tool will not raise questions about human authorship, and the Office will explain that nothing needs to be disclaimed on the application.

### *B. How To Correct a Previously Submitted or Pending Application*

Applicants who have already submitted applications for works containing AI-generated material should check that the information provided to the Office adequately disclosed that material. If not, they should take steps to correct their information so that the registration remains effective.

For applications currently pending before the Office, applicants should contact the Copyright Office's Public Information Office and report that their application omitted the fact that the work contained AI-generated material.[41] Staff will add a note to the record, which the examiner will see when reviewing the claim. If necessary, the examiner then will correspond with the applicant to obtain additional information about the nature of the human authorship included in the work.

For applications that have already been processed and resulted in a registration, the applicant should correct the public record by submitting a supplementary registration. A supplementary registration is a special type of registration that may be used ''to correct an error in a copyright registration or to amplify the information given in a registration.'' [42] In the supplementary registration, the applicant should describe the original material that the human author contributed in the ''Author Created'' field, disclaim the AI-generated material in the ''Material Excluded/Other'' field, and complete the ''New Material Added/Other'' field. As long as there is sufficient human authorship, the Office will issue a new supplementary registration certificate with a disclaimer addressing the AI-generated material.[43]

Applicants who fail to update the public record after obtaining a registration for material generated by AI risk losing the benefits of the registration. If the Office becomes aware that information essential to its evaluation of registrability ''has been omitted entirely from the application or is questionable,'' it may take steps to cancel the registration.[44] Separately, a court may disregard a registration in an infringement action pursuant to section 411(b) of the Copyright Act if it concludes that the applicant knowingly provided the Office with inaccurate information, and the accurate

[34] *See Compendium (Third)* sec. 507.1 (identifying that where a new author modifies a preexisting work, the ''new authorship . . . may be registered, provided that it contains a sufficient amount of original authorship''); *see also* 17 U.S.C. 101 (defining ''derivative work'' to include works ''based upon one or more preexisting works'' where modifications to the work ''which, as a whole, represent an original work of authorship'').

[35] 17 U.S.C. 103(b).

[36] To the extent, however, that an artist uses the AI-powered features in Photoshop, the edits will be subject to the above analysis.

[37] *Sarony,* 111 U.S. at 61.

[38] 17 U.S.C. 409(10).

[39] The Office's other types of application forms do not contain fields where applicants can disclaim unprotectable material such as AI-generated content. For example, the Single Application may only be used if ''[a]ll of the content appearing in the work'' was ''created by the same individual.'' 37 CFR 202.3(b)(2)(i)(B).

[40] The Office does not require applicants to disclaim ''brief quotes, short phrases, and other *de minimis* uses'' of preexisting works. *Compendium (Third)* sec. 503.5.

[41] The Public Information Office can be reached through the Office's website (*https://copyright.gov/help/*) or by phone at (202) 707–3000 or (877) 476–0778.

[42] 17 U.S.C. 408(d); *see also Compendium (Third)* sec. 1802 (discussing supplementary registration process); U.S. Copyright Office, *Circular 8: Supplementary Registration, https://copyright.gov/circs/circ08.pdf* (last revised Mar. 2021); 37 CFR 201.3(c)(14) (fee schedule for supplementary registration).

[43] Though the supplementary registration certificate will have a new registration number and effective date of registration, the original registration ''will not be expunged,'' and the two effective dates ''will coexist with each other in the registration record'' so that a court can determine which date to apply if the copyrighted work is later subject to litigation. 37 CFR 202.6(f)(1)–(2); U.S. Copyright Office, *Circular 8: Supplementary Registration, https://copyright.gov/circs/circ08.pdf* (last revised Mar. 2021).

[44] *See* 37 CFR 201.7(c)(4). If the work contains human authorship intermingled with AI-created material, the Office may add an annotation to clarify the scope of the claim.

information would have resulted in the refusal of the registration.[45]

## V. Conclusion

This policy statement sets out the Office's approach to registration of works containing material generated by AI technology. The Office continues to monitor new factual and legal developments involving AI and copyright and may issue additional guidance in the future related to registration or the other copyright issues implicated by this technology.

* * * * *

Dated: March 10, 2023.

**Shira Perlmutter,**

*Register of Copyrights and Director of the U.S. Copyright Office.*

[FR Doc. 2023–05321 Filed 3–15–23; 8:45 am]

BILLING CODE 1410–30–P

[45] 17 U.S.C. 411(b)(1)(A); *Unicolors, Inc.* v. *H&M Hennes & Mauritz, L.P.,* 142 S. Ct. 941, 948 (2022) (requiring that the applicant ''was actually aware of, or willfully blind to'' the inaccurate information).

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 230306–0066]**

**RIN 0648–BK71**

# Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Spiny Lobster Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement management measures described in Framework Amendment 1 under the Fishery Management Plans for Puerto Rico, St. Croix, and St. Thomas and St. John (collectively, the island-based FMPs) (Framework Amendment 1). For spiny lobster, this final rule modifies annual catch limits (ACLs) in the U.S. Caribbean exclusive economic zone (EEZ) around Puerto Rico, St. Croix, and St. Thomas and St. John. The final rule also revises the accountability measure (AM) trigger for spiny lobster in the EEZ around each island group. The purpose of this final rule is to update management reference points for spiny lobster under the island-based FMPs, consistent with the best scientific information available to prevent overfishing and achieve optimum yield.

**DATES:** This final rule is effective on April 15, 2023.

**ADDRESSES:** An electronic copy of Framework Amendment 1, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/generic-framework-amendment-1-modification-spiny-lobster-management-reference-points.*

**FOR FURTHER INFORMATION CONTACT:** Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *sarah.stephenson@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Puerto Rico, St. Croix, and St. Thomas and St. John fisheries target spiny lobster, which is managed under each island-based FMP. The island-based FMPs were prepared by the Caribbean Fishery Management Council (Council) and NMFS. NMFS implemented the island-based FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act).

On December 22, 2022, NMFS published a proposed rule to implement management measures described in Framework Amendment 1 and requested public comment (87 FR 78625). The proposed rule and Framework Amendment 1 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Framework Amendment 1 and implemented by this final rule is provided below.

All weights described in this final rule are in round weight.

## Management Measures Contained in This Final Rule

For spiny lobster, this final rule revises the ACLs in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John, and the sequence of landings data used by NMFS to determine if an AM is triggered for, or needs be applied in Federal waters around each island group.

### *Annual Catch Limits*

The ACLs for spiny lobster implemented by this final rule are based on stock assessments around each island group completed in 2019 through the Southeast Data, Assessment, and Review process (SEDAR 57). The SEDAR 57 assessments were reviewed by the Council's Scientific and Statistical Committee and determined to be suitable for management advice. For spiny lobster around each island group, only commercial landings data are collected. Because recreational landings data are not available, the ACLs for spiny lobster are based on commercial landings and apply to all harvest for the stock, whether commercial or recreational.

For the Puerto Rico FMP, the ACL for spiny lobster will decrease to 369,313 lb (167,517 kg) for the 2023 fishing year from the previous ACL of 527,232 lb (239,148 kg), and then further decrease to 366,965 lb (166,452 kg) for the 2024 and subsequent fishing years.

For the St. Croix FMP, the ACL for spiny lobster will decrease to 140,667 lb (63,805 kg) for the 2023 fishing year from the previous ACL of 197,528 lb (89,597 kg), and then further decrease to 120,830 lb (54,807 kg) for the 2024 and subsequent fishing years.

For the St. Thomas and St. John FMP, the ACL for spiny lobster will decrease to 142,636 lb (64,698 kg) for the 2023 fishing year from the previous ACL of 209,210 lb (94,892 kg), and then further decrease to 126,089 lb (57,193 kg) for the 2024 and subsequent fishing years.

The updated management reference points, including the ACLs, are expected to better protect against overfishing of the stock in relation to the previous catch limits, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

NMFS notes that Framework Amendment 1 includes recommended ACLs for the 2021 and 2022 fishing years. However, as a result of delays associated with the final rule implementing the island-based FMPs, which needed to precede this rulemaking, and the time needed by NMFS to develop and implement this rulemaking, this final rule does not include spiny lobster ACLs for the 2021 and 2022 fishing years.

### *Accountability Measures*

Under each island-based FMP, the AM for spiny lobster states that NMFS compares available landings of spiny lobster to the spiny lobster ACL based on a moving multi-year average of landings. In the first year following implementation of the island-based FMPs, NMFS compares a single year of available landings to the ACL; in the second year following implementation, NMFS compares a single year of available landings to the ACL; in the third year following implementation, NMFS compares a 2-year average of available landings to the ACL; and in

the fourth year following implementation, NMFS compares a 3-year average of available landings to the ACL. Thereafter, NMFS compares a progressive running 3-year average of available landings to the ACL. NMFS, in consultation with the Council, may deviate from the specific time sequences based on data availability.

Framework Amendment 1 and this final rule revise how NMFS evaluates whether landings of spiny lobster around each island group have exceeded the ACL and trigger the AM. As described in Framework Amendment 1, NMFS will compare the average of the most recent 3 years of available spiny lobster landings to the average of the ACLs in effect during those same fishing years. An AM may be triggered if the average annual landings exceeds the average of the ACLs in effect during those same fishing years. The Council determined this process would better anticipate changes to the spiny lobster ACLs moving forward, following future stock assessments for spiny lobster.

Framework Amendment 1 also clarifies that if spiny lobster landings for a given year are available, but if NMFS has concerns with the data reliability, *e.g.,* concerns with expansion factors applied to reported landings, then NMFS may use different data years to compare to the ACL to determine if the AM has been triggered, consistent with the best scientific information available. The process for how NMFS would apply the timing of an AM during a fishing year remains as described in each of the island-based FMPs and the implementing final rule.

If NMFS determines that an ACL overage resulted from improved data collection or monitoring rather than from increased catch, the AM would not be triggered and NMFS would not reduce the length of the fishing season for spiny lobster.

## Measures in Framework Amendment 1 Not Codified in This Final Rule

In addition to the ACLs described in this final rule, Framework Amendment 1 specifies the proxy for maximum sustainable yield (MSY proxy), as well as the maximum fishing mortality threshold (MFMT) and minimum stock size threshold (MSST) for spiny lobster. Framework Amendment 1 also specifies the overfishing limits and acceptable biological catch (ABC) levels for spiny lobster in the 2021–2023 fishing years and in the 2024 and subsequent fishing years for Puerto Rico, St. Croix, and St. Thomas and St. John. However, as explained earlier, this final rule does not include spiny lobster management reference points for the 2021 and 2022 fishing years.

For the Puerto Rico FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 432,501 lb (196,179 kg), 0.197 ($F_{30\%SPR}$), and 84.8 billion eggs ($0.75*SSB_{MFMT}$), respectively. The OFL for spiny lobster will be 440,803 lb (199,944 kg) for the 2023 fishing year, and then 438,001 lb (198,673 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 388,750 lb (176,334 kg) for the 2023 fishing year, and then 386,279 lb (175,213 kg) for the 2024 and subsequent fishing years.

For the St. Croix FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 127,742 lb (57,943 kg), 0.203 ($F_{30\%SPR}$), and 23 billion eggs ($0.75*SSB_{MFMT}$), respectively. The OFL for spiny lobster will be 167,897 lb (76,156 kg) for the 2023 fishing year, and then 144,219 lb (65,416 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 148,071 lb (67,163 kg) for the 2023 fishing year, and then 127,189 lb (57,691 kg) for the 2024 and subsequent fishing years.

For the St. Thomas and St. John FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 133,601 lb (60,600 kg), 0.244 ($F_{30\%SPR}$), and 21.3 billion eggs ($0.75*SSB_{MFMT}$), respectively. The OFL for spiny lobster will be 170,247 lb (77,222 kg) for the 2023 fishing year, and then 150,497 lb (68,264 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 150,143 lb (68,103 kg) for the 2023 fishing year, and then 132,725 lb (60,203 kg) for the 2024 and subsequent fishing years.

## Comments and Responses

NMFS received no comments on the proposed rule to implement management measures described in Framework Amendment 1. Therefore, no changes were made to this final rule based on public comment.

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Framework Amendment 1, the island-based FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995. A description of this final rule, why it is being considered, and the purposes of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

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

## List of Subjects in 50 CFR Part 622

Caribbean, Fisheries, Fishing, Spiny lobster.

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

Dated: March 6, 2023.

**Samuel D. Rauch, III,**

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.440, revise paragraph (c) to read as follows:

### § 622.440 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(c) *Spiny lobster.* (1) For the 2023 fishing year, the ACL is 369,313 lb (167,517 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 366,965 lb (166,452 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for

that fishing year, as specified in paragraph (c)(1) of this section. If NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward the end of the fishing year.

* * * * *

■ 3. In § 622.480, revise paragraph (c) to read as follows:

**§ 622.480 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

* * * * *

(c) *Spiny lobster.* (1) For the 2023 fishing year, the ACL is 140,667 lb (63,805 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 120,830 lb (54,807 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for that fishing year, as specified in paragraph (c)(1) of this section. If NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward the end of the fishing year.

* * * * *

■ 4. In § 622.515, revise paragraphs (c) to read as follows:

**§ 622.515 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

* * * * *

(c) *Spiny lobster.* (1) For the 2023 fishing year, the ACL is 142,636 lb (64,698 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 126,089 lb (57,193 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for that fishing year, as specified in paragraph (c)(1) of this section. If NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward the end of the fishing year.

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[FR Doc. 2023–04912 Filed 3–15–23; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 230224–0053; RTID 0648–XC790]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Jig Gear in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2023 total allowable catch (TAC) of Pacific cod by vessels using jig gear in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), March 14, 2023, through 1200 hours, A.l.t., June 10, 2023.

**FOR FURTHER INFORMATION CONTACT:** Krista Milani, 907–581–2062.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2023 Pacific cod TAC apportioned to vessels using jig gear in the Western Regulatory Area of the GOA is 78 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the GOA (88 FR 13238, March 2, 2023).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2023 Pacific cod TAC apportioned to vessels using jig gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 73 mt and is setting aside the remaining 5 mt as bycatch to support other anticipated groundfish fisheries. In accordance with

§ 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Western Regulatory Area of the GOA.

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

## Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of Pacific cod by vessels using jig gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 13, 2023.

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

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

Dated: March 13, 2023.

**Jennifer M. Wallace,**

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

[FR Doc. 2023–05433 Filed 3–14–23; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 88, No. 51
Thursday, March 16, 2023

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

## BUREAU OF CONSUMER FINANCIAL PROTECTION

## 12 CFR Part 1026

**[Docket No. CFPB–2023–0017]**

## Regulation Z's Mortgage Loan Originator Rules Review Pursuant to the Regulatory Flexibility Act

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice of section 610 review and request for public comment.

**SUMMARY:** The Consumer Financial Protection Bureau (CFPB or Bureau) is conducting a review of Regulation Z's Mortgage Loan Originator Rules (Loan Originator Rules) pursuant to section 610 of the Regulatory Flexibility Act. Regulation Z, which implements the Truth in Lending Act (TILA), among other things, imposes certain requirements on: loan originator compensation; qualification of, and registration or licensing of, loan originators; compliance procedures for depository institutions; mandatory arbitration; and the financing of single premium credit insurance. As part of this review, the Bureau is seeking comment on the economic impact of the Loan Originator Rules on small entities. These comments may assist the Bureau in determining whether the Loan Originator Rules should be continued without change or amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of such small entities, consistent with the stated objectives of applicable Federal statutes.

**DATES:** Comments must be received on or before May 1, 2023.

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB–2023–0017, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2023-Notice-RFAReviewLoanOriginator@cfpb.gov.* Include Docket No. CFPB–2023–0017 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Loan Originator Rules RFA Review, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

*Instructions:* The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Please note the number of the topic on which you are commenting at the top of each response (you do not need to address all topics). In general, all comments received will be posted without change to *www.regulations.gov.*

All submissions in response to this request for information, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ezer Smith, Attorney-Advisor, or Lanique Eubanks, Senior Counsel, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Acccessibility@cfpb.gov.*

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA) [1] requires each agency to consider the effect on small entities for certain rules it promulgates.[2] Specifically, section 610 of the RFA provides that each agency shall publish in the **Federal Register** a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities.[3]

Section 610 provides that the purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities.[4] As set forth in section 610, in each review, agencies must consider several factors:

(1) The continued need for the rule;

(2) The nature of public complaints or comments on the rule;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or other rules; and

(5) The time since the rule was evaluated or the degree to which technology, market conditions, or other factors have changed the relevant market.[5]

### I. List of Rules for Review

This section lists and briefly describes the rules that the Bureau plans to review in 2023 under the criteria described by section 610 of the RFA and pursuant to the Bureau's review plan.[6]

#### *A. The Rules*

On July 21, 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[7] which amended the Truth in Lending Act (TILA) [8] by, among other things, expanding on previous efforts by lawmakers and regulators to strengthen loan originator qualification requirements and regulate industry compensation practices.[9] Congress enacted TILA based on findings that the informed use of credit resulting from consumers' awareness of the cost of credit would enhance economic stability and would strengthen competition among consumer credit providers.[10] One of the purposes of TILA is to provide meaningful disclosure of credit terms to enable consumers to compare credit terms available in the marketplace more readily and avoid the uninformed use of credit.[11] TILA also contains procedural

[1] Public Law 96–354, 94 Stat. 1164 (1980).

[2] The terms ''small entity'' and ''rule'' are defined in the RFA to include small businesses, small governmental jurisdictions, and small organizations. *See* 5 U.S.C. 601.

[3] 5 U.S.C. 610(a). The Bureau published its plan for conducting reviews under section 610 of the RFA in the **Federal Register** in 2019. *See* 84 FR 21732 (May 15, 2019).

[4] 5 U.S.C. 610(a).

[5] 5 U.S.C. 610(b).

[6] 84 FR 21732 (May 15, 2019).

[7] Public Law 111–203, 124 Stat. 1376 (2010).

[8] 15 U.S.C. 1601 *et seq.*

[9] *See* 15 U.S.C. 1639b; 12 U.S.C. 5103.

[10] 15 U.S.C. 1601(a).

[11] *Id.*

and substantive protections for consumers. Section 1403 of the Dodd-Frank Act created new TILA section 129B(c) for residential mortgage loans which, among other things, imposed restrictions on loan originator compensation, strengthened loan originator qualification requirements, banned certain mandatory arbitration clauses, and prohibited the financing of single-premium credit insurance and waivers of Federal consumer claims.[12]

From September 2010 to October 2013, the Board of Governors of the Federal Reserve System (Board) published two rules that were similar to new TILA section 129B(c) and the Bureau published three rules implementing the TILA amendments.[13] This document refers to these five rules together as ''Regulation Z's Mortgage Loan Originator Rules,'' ''the Loan Originator Rules,'' or ''the Rules.''

Regulation Z's Mortgage Loan Originator Rules, among other things, prohibit compensating loan originators based on a term of a mortgage transaction or a proxy for a term of a transaction,[14] prohibit dual compensation,[15] prohibit steering practices that do not benefit a consumer,[16] implement licensing and qualification requirements for loan originators,[17] and prescribe rules for recordkeeping and compliance.[18] The Rules are designed primarily to protect consumers by reducing incentives for loan originators to steer consumers into loans with particular terms and by ensuring that loan originators are adequately qualified.

1. The Board's 2010–2011 Rules

The Board published its first and second rules to regulate certain mortgage loan origination practices (collectively, the Board's Rules) on September 24, 2010,[19] and July 20, 2011.[20] The Board explained that it aimed to protect consumers from unfair or abusive lending practices that can arise from certain loan originator compensation practices, while preserving responsible lending and sustainable home ownership.[21] The Board's Rules amended Regulation Z to include new restrictions on loan originator compensation and practices and record retention requirements that were similar to many of the Dodd-Frank Act's TILA amendments. The Board's Rules primarily applied to closed-end consumer credit transactions secured by a dwelling.[22] The Board's Rules took effect on April 6, 2011.[23]

*Definition of Loan Originator.* Under the Board's Rules, the term ''loan originator'' was defined as a person who for compensation or other monetary gain, or in expectation of compensation or other monetary gain, arranges, negotiates, or otherwise obtains an extension of consumer credit for another person.[24] The term ''loan originator'' includes an employee of the creditor if the employee meets this definition.[25] The term ''loan originator'' includes the creditor only if the creditor does not provide the funds for the transaction at consummation out of the creditor's own resources, including drawing on a bona fide warehouse line of credit, or out of deposits held by the creditor.[26] For purposes of the Board's Rules, a mortgage broker with respect to a particular transaction is any loan originator that is not an employee of the creditor.[27] Therefore, the activities of a ''loan originator'' include both mortgage broker entities as well as individual mortgage loan officers.

*Prohibited Payments to Loan Originators: Compensation Based on Transaction Terms or Conditions.* The Board's Rules prohibited paying compensation, directly or indirectly, to a mortgage broker or any other loan originator that was based on a mortgage transaction's terms or conditions, other than the amount of credit extended.[28]

*Prohibited Payments to Loan Originators: Payments by Persons other than the Consumer.* The Board's Rules prohibited any person from paying compensation to a loan originator for a particular transaction if the consumer pays the loan originator's compensation directly (dual compensation).[29]

*Prohibition on Steering.* The Board's Rules prohibited a loan originator from steering a consumer to consummate a loan that provides the loan originator with greater compensation than other transactions the loan originator offered or could have offered to the consumer, unless the loan is in the consumer's interest.[30] The Board's Rules also included a safe harbor provision providing that a loan originator could satisfy the anti-steering provisions if it presented a consumer with loan options that met certain criteria.[31]

*Record Retention: Prohibited Payments to Loan Originators.* The Board's Rules provided that for each transaction subject to the provisions concerning prohibited payments to loan originators, a creditor must maintain records of the compensation it provided to the loan originator for the transaction as well as the compensation agreement in effect on the date the interest rate was set for the transaction.[32]

2. The Bureau's 2013 Rules

In 2013, the Bureau issued three rules amending Regulation Z to implement the Dodd-Frank Act's amendments to TILA regarding loan originator compensation as well as the Dodd-Frank Act's provisions prohibiting certain arbitration agreements and the financing of certain credit insurance in connection with a mortgage loan. The Bureau issued its first rule on February 15, 2013,[33] the second on May 31, 2013,[34] and the third on October 1, 2013[35]

[12] Dodd-Frank Act section 1403, 124 Stat. 2139.

[13] After enactment of the Dodd-Frank Act, in the preamble to the 2010 rule, the Board expressed its intent to implement TILA section 129B(c) in a future rulemaking after notice and opportunity for further public comment. 75 FR 58509, 58509 (Sept. 24, 2010).

[14] *See* 12 CFR 1026.36(d)(1).

[15] *See* 12 CFR 1026.36(d)(2).

[16] *See* 12 CFR 1026.36(e).

[17] *See* 12 CFR 1026.36(f).

[18] *See* 12 CFR 1026.25(c)(2).

[19] 75 FR 58509 (Sept. 24, 2010).

[20] 76 FR 43111 (July 20, 2011).

[21] 75 FR 58509, 58509 (Sept. 24, 2010).

[22] *Id.* In comment 36–1, the Board's Rules explained the scope of coverage of a number of provisions, such as prohibited payments to loan originators under 12 CFR 226.36(d) and the prohibition on steering 12 CFR 226.36(e) both applying to closed-end consumer credit transactions secured by a consumer's principal dwelling and secured by first or subordinate liens, and reverse mortgages that are not home-equity lines of credit subject to certain restrictions.

[23] The Board initially set the compliance date for the September 2010 Board Rule as April 1, 2011. *See* 75 FR 58509 (Sept. 24, 2010). On March 31, 2011, the United States Court of Appeals for the District of Columbia Circuit entered an administrative stay of the September 2010 Board Rule, *see* Per Curiam Order at 1, *Nat'l Assoc. of Mortg. Brokers* v. *Fed. Rsrv. Sys.,* No. 11–5078 (D.C. Cir. Mar. 31, 2011), which it then dissolved on April 5, 2011. *See* Per Curiam Order at 1, *Nat'l Assoc. of Mortg. Brokers,* No. 11–5078 (D.C. Cir. Apr. 5, 2011). On July 10, 2011, the Board published final revisions to the official staff commentary to the September 2010 Board Rule. *See* 76 FR 43111 (July 20, 2011). These revisions, which were effective as of July 20, 2011, updated the compliance date for the September 2010 Board Rule from April 1, 2011, to April 6, 2011, to reflect the issuance and dissolution of the administrative stay.

[24] 75 FR 58509, 58533 through 58535 (Sept. 24, 2010) (codified at 12 CFR 226.36(a)(1) and comment 36(a)–1.i).

[25] *Id.* at 58534, 58535 (codified at 12 CFR 226.36(a)(1) and comment 36(a)–1.i).

[26] *Id.* (codified at 12 CFR 226.36(a)(1) and comment 36(a)–1.i–ii, –3).

[27] *Id.* (codified at 12 CFR 226.36(a)(2) and comment 36(a)–2).

[28] 75 FR 58509, 58534 through 58536 (Sept. 24, 2010) (codified at 12 CFR 226.36(d)(1) and comment 36(d)(1)–1 to –9).

[29] *Id.* at 58534, 58536, 58537 (codified at 12 CFR 226.36(d)(2) and comment 36(d)(2)–1 to –3).

[30] *Id.* at 58534, 58537 (codified at 12 CFR 226.36(e)(1) and comment 36(e)(1)–1 to –3).

[31] *Id.* (codified at 12 CFR 226.36(e)(2) and (3) and comments 36(e)(1)–1 to –3 and 36(e)(2)–1 to –4).

[32] *Id.* at 58534 (codified at comment 25(a)–5).

[33] 78 FR 11280 (Feb. 15, 2013).

[34] 78 FR 32547 (May 31, 2013).

[35] 78 FR 60382 (Oct. 1, 2013).

(collectively the Bureau's Rules). The Bureau explained in the preamble to the first of the Bureau's Rules that the mortgage market crisis focused attention on the critical role that loan officers and mortgage brokers play in the loan origination process, noting that consumers rely heavily on loan officers and mortgage brokers to guide them and how, prior to the crisis, training and qualification standards for loan originators varied widely and compensation was frequently structured to give loan originators strong incentives to steer consumers into more expensive loans.[36] The Bureau further explained that the Dodd-Frank Act was expanding on previous efforts by lawmakers and regulators to strengthen loan originator qualification requirements and regulate industry compensation practices and that the Bureau was issuing new rules to implement the Dodd-Frank Act requirements, as well as revising and clarifying existing regulations and commentary on loan originator compensation.[37]

The Bureau's Rules addressed the following major topics:

*Definition of Loan Originator.* The Bureau's Rules expanded upon the definition of a ''loan originator'' by outlining a set of activities or services that, if done for or in the expectation of compensation or gain, makes the person doing such activities or performing such services a loan originator, unless otherwise excluded. The term ''loan originator'' means a person who, in expectation of direct or indirect compensation or other monetary gain or for direct or indirect compensation or other monetary gain, performs any of the following activities: takes an application; offers, arranges, assists a consumer in obtaining or applying to obtain, negotiates, or otherwise obtains or makes an extension of consumer credit for another person; or through advertising or other means of communication represents to the public that such person can or will perform any of these activities.[38] The definition of loan originator includes five specific exclusions, including for persons who ''perform[ ] purely administrative or clerical tasks'' on behalf of a loan originator and who engage in certain seller financing activities.[39] The term ''loan originator organization'' is any loan originator that is not an individual loan originator.[40] Therefore, the term ''loan originator'' includes an employee, agent, or contractor of the creditor or loan originator organization if the employee, agent, or contractor meets this definition.[41]

*Prohibited Payments to Loan Originators: Payments Based on a Term of a Transaction.* The Bureau's Rules clarified and revised Regulation Z to prevent evasion of the prohibition on compensation based on a term of a transaction adopted in the Board's Rules. For example, the Bureau's Rules expressly prohibited compensation based in whole or in part on a factor that is a ''proxy'' for a term of a transaction.[42] In addition, to prevent incentives to upcharge consumers on their loans, the Bureau's Rules prohibited loan originator compensation based upon the profitability of a transaction or a pool of transactions.[43] However, the Bureau's Rules permitted certain bonuses and retirement and profit-sharing plans to be based on the terms of multiple loan originators' transactions.[44]

*Payments by Persons other than Consumer: Dual Compensation.* The Bureau's Rules added an exception to the prohibition on dual compensation included in the Board's Rules that allowed mortgage brokers to pay their employees or contractors commissions even if the consumer paid loan originator compensation to the mortgage broker, as long as the commissions are not based on the terms of the loans that they originate.[45]

*Steering.* The Bureau's Rules made only minimal changes to the Board's anti-steering provisions codified in 12 CFR 1026.36(e). The Bureau's Rules revised the Board's steering provisions to clarify that where two or more loans available to be presented to a consumer by a loan originator, for purposes of the safe harbor, have the same total dollar amount of discount points, origination points, or origination fees, the loan originator must present the loan with the lowest interest rate that has the lowest total dollar amount of discount points, origination points, or origination fees for which the loan originator has a good faith belief that the consumer likely qualifies.[46] The Bureau's Rules also clarified, in the Official Interpretations, that the loan with the lowest interest rate for which the consumer likely qualifies is the loan with the lowest rate the consumer can likely obtain, regardless of how many discount points, origination points or origination fees the consumer must pay to obtain it.[47]

*Loan Originator Qualification and Identification Requirements.* The Bureau's Rules implemented a Dodd-Frank Act provision that establishes certain qualification requirements for loan originators.[48] The Bureau's Rules imposed duties on loan originator organizations to ensure that their individual loan originators are licensed or registered as applicable under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)[49] and other applicable law.[50] The Bureau's Rules required that loan originator employers whose employees are not required to be licensed—including employers that are depository institutions and bona fide nonprofits—

[36] 78 FR 11280, 11280 (Feb. 15, 2013).

[37] *Id.*

[38] *Id.* at 11410, 11414, 11415 (codified at 12 CFR 1026.36(a)(1)(i) and comment 36(a)–1.i.A).

[39] *Id.* at 11410, 11415, 11416 (codified at 12 CFR 1026.36(a)(1)(i)(A) through (E) and comments 36(a)–1.ii–v; –4); 78 FR 60382, 60445 (Oct. 1, 2013) (codified at comment 36(a)(1)(i)(B)–1).

[40] 78 FR 11280, 11410, 11415 (Feb. 15, 2013) (codified at 12 CFR 1026.36(a)(1)(i) and comment 36(a)–1.i.D).

[41] *Id.* at 11410, 11415 (codified at 12 CFR 1026.36(a)(1)(i) and comment 36(a)–1.i.B). In its October 2013 Rule, the Bureau further clarified the definition of loan originator to address: (1) when employees of a creditor or loan originator in certain administrative or clerical staff roles are not considered ''loan originators,'' (and not also agents and contractors, as initially written in the final rule) and (2) when employees of manufactured housing retailers may be classified as ''loan originators.'' 78 FR 60382, 60441–45 (Oct. 1, 2013) (codified at 12 CFR 1026.36(a)(1)(i) and comments 36(a)–1, –4, –5, and 36(a)(1)(i)(B)–1).

[42] 78 FR 11280, 11411, 11418 through 11423 (Feb. 15, 2013) (codified at 12 CFR 1026.36(d)(1) and comment 36(d)(1)–1 to –8, –10); 78 FR 60382, 60446 through 60449 (Oct. 1, 2013) (codified at comment 36(d)(1)–1, –3, –6). The Board's rule previously included commentary clarifying that a proxy for a transaction term or condition would also violate the rule, but the Board's Rule did not define proxy and provided only one example, and stakeholders subsequently requested additional clarity from the Bureau on proxies. *See* 78 FR 11280, 11323, 11324 (Feb. 15, 2013). The Bureau's Rule included a definition of proxy in the regulatory text and two new commentary examples. Under the Bureau's Rules, a factor that is not itself a term of a transaction is a proxy for a term of the transaction if the factor consistently varies with that term over a significant number of transactions, and the loan originator has the ability, directly or indirectly, to add, drop, or change the factor in originating the transaction. *Id.* at 11411, 11419 (codified at 12 CFR 1026.36(d)(1)(i) and comment 36(d)(1)–2.ii).

[43] 78 FR 11280, 11411, 11418, 11419 (Feb. 15, 2013) (codified at 12 CFR 1026.36(d)(1)(i) and comment 36(d)(1)–1 and –2).

[44] *Id.* at 11411, 11419 through 11423 (codified at 12 CFR 1026.36(d)(iii) through (iv) and comment 36(d)(1)–3).

[45] *Id.* at 11412, 11423, 11424 (codified at 12 CFR 1026.36(d)(2)(i)(C) and comment 36(d)(2)(i)–1).

[46] *Id.* at 11412, 11424 (codified at 12 CFR 1026.36(e)(3)(i)(C), read in conjunction with 12 CFR 1026.36(e)(3)(ii), and comment 36(e)(3)–3).

[47] *Id.* at 11424 (codified at comment 36(e)(3)–3).

[48] *Id.* at 11412, 11424 through 11426 (codified at 12 CFR 1026.36(f) and comments 36(f)–1 to –3, 36(f)(1)–1, 36(f)(2)–1, 36(f)(3)–1, 36(f)(3)(i)–1 to –2, 36(f)(3)(ii)–1 to –3, 36(f)(3)(ii)(B)–1 to –2, and 36(f)(3)(iii)–1); 78 FR 60382, 60441, 60442, 60449 (Oct. 1, 2013) (codified at 12 CFR 1026.36(f)(3)(i) through (ii) and comments 36(f)(3)(i)–1, –2 and 36(f)(3)(ii)–1, to –2).

[49] 12 U.S.C. 5101 *et seq.*

[50] 78 FR 11280, 11412 (Feb. 15, 2013) (codified at 12 CFR 1026.36(f)(1)–(2)).

must ensure that their employees meet certain character, fitness, and criminal background standards and must provide their employees with appropriate training.[51] The Bureau's Rules also implemented a Dodd-Frank Act requirement that loan originators provide their unique identifiers under the Nationwide Mortgage Licensing System and Registry (NMLSR) on loan documents.[52]

*Prohibition on Mandatory Arbitration Clauses and Waivers of Certain Consumer Rights.* The Bureau's Rules implemented Dodd-Frank Act restrictions on mandatory arbitration clauses and waivers of Federal consumer claims. The Bureau's Rules prohibited both (1) including clauses in a contract or other agreement for a consumer credit transaction secured by a dwelling that require the consumer to submit disputes arising out of that agreement to binding arbitration;[53] and (2) the application or interpretation of provisions of such loans or related agreements so as to bar a consumer from bringing a claim in court in connection with any alleged violation of Federal law.[54]

*Prohibition on Financing Single-Premium Credit Insurance.* The Bureau's Rules prohibited financing any premiums or fees for credit insurance (such as credit life insurance) in connection with a consumer credit transaction secured by a dwelling (while allowing credit insurance to be paid for on a monthly basis).[55] The Bureau subsequently clarified what constitutes financing of such premiums by a creditor, when credit insurance premiums are considered to be calculated and paid on a monthly basis, and when including the credit insurance premium or fee in the amount owed is prohibited.[56]

*Other Provisions.* The Bureau's Rules also extended existing recordkeeping requirements concerning loan originator compensation in two ways. First, they required a creditor to maintain records sufficient to evidence all compensation it pays to a loan originator and the compensation agreement that governs those payments for three years after the date of payment. Second, they required a loan originator organization to maintain records sufficient to evidence all compensation it receives from a creditor, a consumer, or another person; all compensation it pays to any individual loan originator; and the compensation agreement that governs each such receipt or payment, for three years after the date of each such receipt or payment.[57] Pursuant to the Dodd-Frank Act, the Bureau's Rules implemented the requirement for depository institutions, the subsidiaries of such institutions, and the employees of such institutions or subsidiaries to establish and maintain procedures reasonably designed to assure and monitor compliance with the compensation, steering, qualification, and identification requirements.[58] The Bureau's Rules also clarified that the required procedures must be ''written'' to promote transparency, consistency, and accountability.

The prohibition on mandatory arbitration clauses and waivers of Federal consumer claims took effect on June 1, 2013.[59] The remaining provisions adopted by the Bureau's 2013 Rules took effect on January 1, 2014,[60] with the exception of the ban on financing credit insurance, which took effect on January 10, 2014.[61]

*No Prohibition on Consumer Payment of Upfront Points and Fees.* Section 1403 of the Dodd-Frank Act contains a section that would generally have prohibited consumers from paying upfront points or fees on transactions in which the loan originator compensation is paid by a person other than the consumer (either to the creditor's own employee or to a mortgage broker). However, the Dodd-Frank Act also authorizes the Bureau to waive or create exemptions from the prohibition on upfront points and fees. The Bureau opted to include a complete exemption to the prohibition on upfront points and fees in the Bureau's Rules, noting that the Bureau needed to examine the impact such a prohibition would have on the mortgage market.[62]

### *B. The Market*

The Bureau monitors the mortgage origination market as part of its oversight and enforcement of TILA and Regulation Z, including the mortgage origination rules that are the subject of this review, as well as other aspects of the regulation applicable to the market and through oversight of the SAFE Act and Real Estate Settlement Procedures Act in Regulations G, H and X, respectively.

#### 1. Market Structure and Participants

The mortgage origination market is one of the United States' largest consumer financial markets, with an average estimated annual origination volume of about 10 million[63] mortgages

[51] *Id.* at 11412, 11413, 11426 (codified at 12 CFR 1026.36(f)(3) and comments 36(f)(3)(ii)(B)–1, –2, 36(f)(3)(iii)–1, –2).

[52] *Id.* at 11413, 11426, 11427 (codified at 12 CFR 1026.36(g) and comments 36(g)–1 to –3, 36(g)(1)(ii)–1).

[53] *Id.* at 11413 (codified at 12 CFR 1026.36(h)(1)).

[54] *Id.* (codified at 12 CFR 1026.36(h)(2)).

[55] 78 FR 11280, 11413 (Feb. 15, 2013) (codified at 12 CFR 1026.36(i)); 78 FR 60382, 60442, 60449 (Oct. 1, 2013) (codified at 12 CFR 1026.36(i) and comment 36(i)–1).

[56] 78 FR 60382, 60383 (Oct. 1, 2013) (codified at 12 CFR 1026.36(i)(2)(ii) and (iii) and comment 36(i)–1).

[57] 78 FR 11280, 11410, 11413, 11414 (Feb. 15, 2013) (codified at 12 CFR 1026.25(c)(2) and comment 25(c)(2)–1 to –2).

[58] *Id.* at 11413 (codified at 12 CFR 1026.36(j)); 78 FR 60382, 60442 (Oct. 1, 2013) (codified at 12 CFR 1026.36(j)(2)). This provision is similar to the registration procedures pursuant to the Dodd-Frank Act requirement added by TILA section 129B(b)(2) and a final rule promulgated by the Federal prudential regulatory agencies for banks, thrifts, and credit unions requiring the institutions the Federal prudential regulatory agencies regulate to adopt and follow written policies and procedures designed to assure compliance with the registration requirements of the SAFE Act. This specific final rule was inherited by the Bureau and designated as Regulation G.

[59] 78 FR 11280, 11280 (Feb. 15, 2013).

[60] 78 FR 60382, 60383 (Oct. 1, 2013).

[61] The February 2013 Bureau Rule initially set a June 1, 2013, effective date for the provisions containing the mandatory arbitration clause prohibition and credit insurance financing prohibition (amendments to 12 CFR 1026.36(h) and (i)) and a January 10, 2014 effective date for all other provisions. On May 31, 2013, the Bureau issued a final rule delaying the effective date for the credit insurance financing prohibition from June 1, 2013 to January 10, 2014. *See* 78 FR 32547, 32549, 32550 (May 31, 2013). The Bureau delayed the effective date of these provisions to permit the Bureau to clarify, before the provisions took effect, their applicability to transactions other than those in which a lump-sum premium is added to the loan amount at closing. The Bureau's October 2013 Rule retained the January 10, 2014 effective date for the credit insurance financing prohibition (12 CFR 1026.36(i)) but changed the effective date for the amendments to 12 CFR 1026.36(a), (b), (d), (e), (f), and (j) from January 10, 2014 to January 1, 2014. 78 FR 60382, 60383 (Oct. 1, 2013).

[62] 78 FR 11280, 11281 (Feb. 15, 2013) (codified at 12 CFR 1026.36(d)(2)(ii)).

[63] *See* CFPB, *Data Point: 2021 Mortgage Market Activity and Trends* (Sept. 19, 2022), *https://files.consumerfinance.gov/f/documents/cfpb_data-point-mortgage-market-activity-trends_report_2022-09.pdf* (*HMDA Datapoint 2021*); CFPB, *Data Point: 2018 Mortgage Market Activity and Trends* (Aug. 30, 2019), *https://files.consumerfinance.gov/f/documents/cfpb_2018-mortgage-market-activity-trends_report.pdf* (*HMDA Datapoint 2018*); and CFPB, *Data Point: 2017 Mortgage Market Activity and Trends* (May 7, 2018), *https://files.consumerfinance.gov/f/documents/bcfp_hmda_2017-mortgage-market-activity-trends_report.pdf* (*HMDA Datapoint 2017*). The Bureau calculates average annual HMDA reportable originations based on total annual originations for 2018 to 2021 from Table 1 in *HMDA Datapoint 2021* and total annual originations for 2011 to 2017 from Table 1A in *HMDA Datapoint 2018*. In *HMDA Datapoint 2018,* the Bureau estimated that HMDA reporters originated about 90 percent of all originations in the U.S. (*see* page 11). The Bureau calculates average annual total originations by multiplying the average annual HMDA reportable originations by 1.11. The Bureau notes that its 2015 HMDA final rule implemented several reporting changes that took affected data collected starting in 2018. For example, the 2015 HMDA rule changed reporting of open-end LOCs from optional to mandatory. The Bureau does not adjust annual HMDA reportable originations across time to

Continued

for $2.2 trillion[64] over the past 10 years.[65] The market had been growing in recent years by most measures until a sharp slowdown occurring in 2022 with the rapid increase in mortgage rates. Market volume is driven by interest rates, credit availability, and demand for housing. During periods of relatively low interest rates, demand for mortgages is generally strong because purchasing power is strong (*i.e.,* the monthly cost of a mortgage relative to the loan balance is low). When interest rates increase, purchasing power is reduced and therefore demand weakens. Conversely, when interest rates decrease, purchasing power is increased, driving increased mortgage demand. Decreasing interest rates also drive demand for refinances independent from the demand for home purchases. This can lead to large spikes in mortgage origination demand after large drops in interest rates, as was seen in 2020 and 2021, with rapid reduction in demand when interest rates increase, as was seen in 2022.[66] The availability of credit also affects demand for mortgages. As credit availability is eased, the ability to obtain mortgage financing is relaxed, enabling more potential purchasers to access mortgage credit, thereby increasing demand. Conversely, a tightening in credit availability will restrict access to mortgage financing and therefore reduce demand. These effects of credit availability in the market were most pronounced in the lead up to the Great Recession of 2007–2009, where lax credit underwriting standards led to high demand for home purchases even as interest rates began to rise. Subsequently, the crash in the value of owned homes and the mortgage market led to severe tightening of credit standards and dampening demand for home ownership even as interest rates declined.

Participation in the market is diverse, ranging from the largest banks to small community banks, credit unions, and non-depository lending institutions. Participation by large banks has declined over the past 10 years as large non-depository creditors emerged as the primary mortgage providers. In 2014, 11 of the top 25 creditors were depository institutions, while in 2021 only six of the top 25 were depository institutions.[67] In addition to the trend toward mortgage lending by non-depository institutions, the market has experienced consolidation with respect to the participation of large creditors. In 2014, the top 25 creditors represented 34 percent of the market, while in 2021 the top 25 represented 44 percent.[68]

Most of the Rules apply to institutions that engage in originating or extending closed-end, consumer credit transactions secured by a dwelling.[69] Therefore, all small entities that originate or extend closed-end consumer credit transactions secured by a dwelling, such as depository institutions and non-depository institutions, including mortgage brokers, are likely subject to at least some aspects of the Rules.

The Bureau estimates the number of small depository institutions using Federal Financial Institutions Examination Council (FFIEC) and National Credit Union Administration (NCUA) Reports of Condition and Income (call reports) data and estimates the number of non-depository institutions using the Economic Census. In 2010, prior to the implementation of the Board's 2010 Rule, there were 15,146 depository institutions (*i.e.,* banks, thrifts, and credit unions).[70] Of these institutions, 11,180 (74 percent) originated mortgages and were subject to the subsequent Regulation Z Loan Originator Rules.[71] According to the current Small Business Administration (SBA) threshold of $850 million or less in total assets,[72] 14,152 (93 percent) of depository institutions were small at the end of 2010. Of these small depository institutions, 10,216 (72 percent) were subject to the Rules. The trend toward depository institution consolidation (which began prior to 2010) has reduced the total number of depository institutions, and the share of depository institutions that originate mortgages has increased slightly since 2010. As of the end of 2021, 7,876 out of 9,887 (80 percent) depository institutions and 6,299 out of 8,278 (76 percent) small depository institutions were subject to the Rules.[73]

The Bureau relies on data from the 2007 and 2017 Economic Census to estimate the number of non-depository institutions, including mortgage brokers, that employed loan originators prior to the implementation of the Board's 2010 Rule and the number of institutions currently subject to the Regulation Z Loan Originator Rules.[74] In 2007,[75] there were 20,625 mortgage brokers, 20,393 of which were small according to the SBA's current size standards.[76] The same year, there were 10,539 non-depository creditor institutions that originated mortgages, 10,206 of which were small.[77] The Bureau assumes that

account for this change when calculating average annual originations.

[64] *See* Fed. Rsrv. Bank of N.Y., *Quarterly Report on Household Debt and Credit Q3 2022* (Nov. 15, 2022), *https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/hhd_c_report_2022q3.xlsx.* The Bureau calculates average annual mortgage origination dollar volume by summing total mortgage originations across quarters for each year from 2011 to 2021 and taking the average over those years (see page 6 data tab in spreadsheet).

[65] The Bureau notes that the Nationwide Multistate Licensing System (NMLS) *2021 Annual Mortgage Report* implies a lower annual average dollar volume of originations of $1.3 trillion between 2012 and 2021. *See* NMLS, *2021 Annual Mortgage Report, https://mortgage.nationwidelicensingsystem.org/about/Reports/2021%20Annual%20Mortgage%20Report.xlsx.*

[66] *See HMDA Datapoint 2021.* The Bureau's most recent data point article found that the number of closed-end originations (excluding reverse mortgages) in 2021 slightly increased by 2.4 percent from 2020. Whereas the number of originations increased by 66.8 percent between 2019 to 2020 largely driven by the refinance boom that began in 2020. Most of the increase from 2020 to 2021 was driven by an increase in the number of home purchase loans while the volume of refinance transactions continued to remain elevated.

[67] *See* Neil Bhutta *et al.,* Fed. Rsrv. Bd., *The 2014 Home Mortgage Disclosure Act Data,* 101 Fed. Res. Bulletin at T.12 (Nov. 2015), *https://www.federalreserve.gov/pubs/bulletin/2015/pdf/2014_HMDA.pdf* (HMDA Bulletin 2014); *HMDA Datapoint 2021* at T.6A.

[68] *Id.*

[69] 12 CFR 1026.36(b).

[70] Calculated from FFIEC Call Report data, NCUA Call Report data, and Thrift Financial Report data for all quarters of 2010, accessed on January 6, 2023.

[71] The Bureau classifies a bank or thrift as originating any mortgages if the institution reported a positive outstanding balance of closed-end loans secured by 1–4 family residential properties on its Call Report in any of the prior four quarters. The Bureau classifies a credit union as originating mortgages if the institution reported a positive total number of real estate loans granted year-to-date in the final quarter of the year.

[72] 13 CFR 121.201. Depository institutions have North American Industry Classification System (NAICS) codes of 522110 (Commercial Banking), 522130 (Credit Unions), and 522180 (Savings Institutions and Other Depository Credit Intermediation). All three industries have size standards of $850 million as of December 19, 2022.

[73] Calculated from FFIEC Call Report data and NCUA Call Report data for all quarters of 2021, accessed on January 9, 2023.

[74] *See* U.S. Census Bureau, *Stats. of U.S. Bus. Data by Enter. Receipts Size 2017* (May 2021), *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html* (SUSB 2017); U.S. Census Bureau, *Stats. of U.S. Bus. Data by Enter. Receipts Size 2007* (2007), *https://www.census.gov/data/tables/2007/econ/susb/2007-susb-annual.html* (SUSB 2007).

[75] The Bureau is aware that a substantial portion of the changes from 2007 to 2017 may have occurred prior to the 2010 Board Rule due to the severe downturn in the mortgage market at that time. The Economic Census is only conducted for years that end in 2 and 7. The Bureau does not have access to the necessary data to estimate the number of small entities in 2010.

[76] The NAICS code for Mortgage Brokers is 522310. As of December 19, 2022, the SBA size standard threshold for Mortgage Brokers is $15 million in annual average receipts. The Bureau calculates the number of firms and small firms using the SUSB 2007.

[77] The Bureau measures non-depository creditor mortgage originators using NAICS 522292 (Real Estate Credit). As of December 19, 2022, the SBA size standard threshold for Real Estate Credit firms

all these non-depository institutions are subject to the Rules. The non-depository mortgage industry has also experienced substantial consolidation in the last 10 years. In 2017, the number of mortgage brokers decreased by 67 percent to 6,809, of which 6,670 were small.[78] Similarly, the number of non-depository creditor institutions decreased by 68 percent to 3,289 in 2017, of which 2,904 were small.[79]

2. Mortgage Origination Process

The primary mortgage origination market, which encompasses the interaction of the consumer with the loan originator, can be generally divided into two types of origination channels—retail and wholesale. In a retail transaction, the consumer deals with a loan officer who is an individual loan originator employed by the creditor, such as a bank, credit union, or non-depository creditor. The creditor may operate a network of branches or communicate with consumers through mail, the internet, or by phone. The entire origination transaction is conducted within the corporate structure of the creditor, and the loan is closed using funds supplied by the creditor. Depending on the type of creditor, the creditor may hold the loan in portfolio or sell the loan to investors on the secondary market, as discussed further below.

In a wholesale transaction, the consumer deals with an individual loan originator that is a mortgage brokerage firm or employed by such a mortgage brokerage firm. In essence, the wholesale origination channel consists of creditors that utilize independent third parties to perform the duties of a loan originator, whereas the retail channel consists of creditors that utilize employees to perform such duties. Because, in the context of a wholesale transaction, the mortgage broker operates as a third party, the mortgage broker seeks offers from many different creditors, and then act as a liaison between the consumer and whichever creditor ultimately closes the loan. Generally, at closing, the loan is consummated by using the creditor's funds, and the mortgage note is written in the creditor's name. The creditor may hold the loan in portfolio or sell the loan on the secondary market.

Both retail loan officers and mortgage brokers provide information to consumers about different types of loans and advise consumers on choosing a loan. Consumers may rely on loan officers and mortgage brokers to determine what kind of loan best suits the consumer's needs. Loan officers and mortgage brokers also take a consumer's completed loan application for submission to the creditor's loan underwriter. The application includes the consumer's credit and income information, along with information about the home to be used as collateral for either a purchase or refinance. Consumers can work with multiple loan originators to compare the loan offers that loan originators may obtain on their behalf from creditors. The loan originator or creditor may request additional information or documents from the consumer to support the information in the application and obtain an appraisal of the property. After origination, the process for underwriting and loan closing generally occurs with the creditor. However, the retail loan officer or mortgage broker generally serves as the liaison for the consumer throughout the process.

As stated, after a loan is closed, the mortgage creditor who made the loan either through the retail or wholesale origination channel may keep the loan in portfolio or sell the loan on the secondary market. To accomplish this, the creditor may sell the whole loan to another mortgage lender or investor in what is referred to as a correspondent sale, or the creditor may place the loan into a security to be sold on the secondary market. A purchaser of a correspondent sale loan may also place the loan into a security to be sold. In the current marketplace, a majority of loans originated are ultimately placed into Mortgage Backed Securities (MBSs) for sale in the secondary market. When a creditor sells a loan into the secondary market, the creditor is exchanging an asset (the loan) that produces regular cash flows (principal and interest) for an upfront cash payment from the buyer.[80] The upfront cash payment represents the buyer's present valuation of the loan's future cash flows, using assumptions about the rate of prepayments due to property sales and refinancings, the rate of expected defaults, the rate of return relative to other investments, and other factors. Secondary market buyers assume considerable risk in determining the price they are willing to pay for a loan. If, for example, loans prepay faster than expected or default at higher rates than expected, the investor will receive a lower return than expected. Conversely, if loans prepay more slowly than expected, or default at lower rates than expected, the investor will earn a higher return over time than expected.

3. Loan Originator Compensation Structure

Loan originators are typically paid a commission that is a percentage of the loan amount. Prior to 2010, it was common for the percentage to vary based upon the interest rate of the loan or other loan terms: commissions on loans with higher interest rates, or with terms such as prepayment penalties, were higher than commission on loans with lower interest rates or lack of prepayment penalties (just as the premiums paid by the secondary market for loans vary with the interest rate or other terms). This was typically called a ''yield spread premium.''[81] In the wholesale context the mortgage broker might keep the entire yield spread premium as a commission, or they might provide some of the yield spread premium to the borrower as a credit against closing costs.[82]

While this system was in place, it was common for loan originator commissions to mirror secondary market pricing closely. The ''price'' that the creditor offered to its mortgage brokers or made available to its loan officers was somewhat lower than the price that the creditor expected to receive from the secondary market—the creditor kept the difference as corporate revenue. However, the underlying mechanics of the secondary market flowed through to the loan originator's compensation. The higher the interest rate on the loan or the more in upfront charges the consumer paid to the creditor (or both), the greater the

is $47 million in annual average receipts. In the SUSB 2007 and 2017, the Census provides counts of firms by receipt size buckets that do not correspond to all size standards. The Bureau calculates the number of small Real Estate Credit firms as the number of firms below $45 million in receipts reported in the SUSB 2007 and SUSB 2017.

[78] Calculated from SUSB 2007 and SUSB 2017. *See* note 76, *supra.*

[79] Calculated from SUSB 2007 and SUSB 2017. *See* note 77, *supra.*

[80] For simplicity, this discussion assumes that the secondary market buyer is a person other than the creditor, such as Fannie Mae, Freddie Mac, or another institutional financial entity. In practice, some creditors may securitize their own loans and sell the securities directly. In this case, the secondary market price is determined by the price investors are willing to pay for the subsequent securities. This scenario also does not consider various risk mitigation techniques, such as risk-sharing counterparties, credit risk enhancements, or security derivatives.

[81] The term ''yield spread premium'' has been used in different contexts in the mortgage industry. Some use the term to mean solely a payment from a creditor to a mortgage broker for a higher interest rate, while others use the term to mean anytime a mortgage is priced at a rate and term that would generate a premium upon sale in the secondary market.

[82] Both retail loan officers and mortgage brokers received compensation in this fashion. Some retail loan officers may also have been paid salary, bonuses, or a combination of all.

compensation available to the loan originator. This created a situation in which the loan originator had a financial incentive to steer consumers into loans with higher interest rates or less favorable terms or to impose on the consumer additional upfront charges payable to the creditor. In a perfectly competitive and transparent market, competition would ensure that this incentive would be countered by the need to compete with other loan originators to offer attractive loan terms to consumers. However, the mortgage origination market is neither always perfectly competitive nor always transparent, and consumers (who take out a mortgage only a few times in their lives) may be uninformed about how prices work and what terms they can expect. While these rules and other CFPB rules have improved transparency and helped to foster shopping, survey responses of mortgage borrowers continue to show that a significant portion of consumers who take out a mortgage for home purchase fail to shop prior to application; that is, they seriously consider only a single creditor or mortgage broker before choosing where to apply.[83] Moreover, prior to 2010, mortgage brokers were free to charge consumers directly for additional origination points or fees, which were generally described to the consumer as compensating for the time and expense of working with the consumer to submit the loan application. This compensation structure was problematic for two reasons. First, the loan originator had an incentive to steer borrowers into less favorable pricing terms. Second, the consumer may have paid origination fees to the loan originator believing that the loan originator was working for the borrower, without knowing that the loan originator was receiving compensation from the creditor as well.

In recent years, compensation structures have changed to reduce, if not eliminate, most problematic incentives. This has been due to several factors: (1) the restrictions on loan originator compensation imposed under the Board's Rules, which took effect in 2010; (2) the enactment of TILA section 129B(c) through the Dodd-Frank Act, which largely codified those restrictions in 2010; and (3) amendments to Regulation Z by the CFPB in 2013. Today, loan originator compensation is primarily determined as a percentage of the loan amount being originated as specifically permitted by TILA. Typical compensation structures might also include adjustments for the number of originations in a certain time period.[84]

*C. Bureau Resources and Analysis*

Since issuing Regulation Z's Mortgage Loan Originator Rules, the Bureau has published numerous reports and other materials on the mortgage origination market. In 2018, the Bureau issued its first annual series of data point articles describing mortgage market activity based on data reported under the Home Mortgage Disclosure Act (HMDA).[85] The annual data point article typically covers mortgage applications and originations, mortgage outcomes by demographic groups and loan types, monthly mortgage trends and activities, and information on the lending institutions that reported lending activities under HMDA. The Bureau has also released several articles concerning the mortgage origination market. These articles have covered various issues, such as consumer finance in rural Appalachia, first-time homebuyers, types of changes that occur during the mortgage origination process, profiles of older adults living in mobile homes, manufactured housing finance, and Asian American and Pacific Islanders in the Mortgage Market.[86]

Through its supervisory and enforcement programs, the Bureau performs examinations of large banks and certain nonbanks for compliance with Federal consumer financial laws and entered into consent orders where noncompliance is observed. Since 2015, the Bureau has, through its publication of *Supervisory Highlights* on its supervisory program and certain litigation-related documents on its enforcement actions, reported noncompliance with aspects of Regulation Z's Mortgage Loan Originator Rules involving: (1) compensation based on a term of a transaction[87] where: (a) loan originators received compensation based, in part, on the interest rates of the loans they closed;[88] and (b) loan originators were paid differently based on product type where the product type contained different terms;[89] (2) failure of a depository institution to establish

[83] CFPB, *Consumers' Mortgage Shopping Experience* (Jan. 2015), *https://files.consumerfinance.gov/f/201501_cfpb_consumers-mortgage-shopping-experience.pdf,* and Fannie Mae, *One-Third of Recent Homebuyers Still Don't 'Shop Around' for Mortgages* (Nov. 2015), *https://files.consumerfinance.gov/f/201501_cfpb_consumers-mortgage-shopping-experience.pdf,* and Fannie Mae, *One-Third of Recent Homebuyers Still Don't 'Shop Around' for Mortgages* (Nov. 18, 2022), *https://www.fanniemae.com/research-and-insights/perspectives/homebuyers-shop-around-mortgages.*

[84] Regulation Z's Mortgage Loan Originator Rules outline permissible methods of compensation as: (1) loan originator's overall dollar volume (*i.e.,* total dollar amount of credit extended or total number of transactions originated), delivered to the creditor; (2) long-term performance of the originator's loans; (3) an hourly rate of pay to compensate the originator for the actual number of hours worked; (4) whether the consumer is an existing customer of the creditor or a new customer; (5) a payment that is fixed in advance for every loan the originator arranges for the creditor; (6) the percentage of applications submitted by the loan originator to the creditor that results in consummated transactions; and (7) the quality of the loan originator's loan files (*e.g.,* accuracy and completeness of the loan documentation) submitted to the creditor. Comment 36(d)(1)–2.i.

[85] CFPB, *Data Point: 2017 Mortgage Market Activity and Trends* (May 7, 2018), *https://files.consumerfinance.gov/f/documents/bcfp_hmda_2017-mortgage-market-activity-trends_report.pdf.* HMDA data are used to assist in determining whether financial institutions are serving the housing credit needs of their local communities; facilitate public entities' distribution of funds to local communities to attract private investment; and help identify possible discriminatory lending patterns and enforce antidiscrimination statutes.

[86] CFPB, *Consumer Finances in Rural Appalachia: Data Point* (Sept. 2022), *https://files.consumerfinance.gov/f/documents/cfpb_consumer-finances-in-rural-appalachia_report_2022-09.pdf;* CFPB, *Market Snapshot: First-time Homebuyers* (Mar. 2020), *https://files.consumerfinance.gov/f/documents/cfpb_market-snapshot-first-time-homebuyers_report.pdf;* CFPB, *How Mortgages Change Before Origination* (Oct. 2020), *https://files.consumerfinance.gov/f/documents/cfpb_data-point_how-mortgages-change-before-origination.pdf;* CFPB, *Data Spotlight: Profiles of Older Adults Living in Mobile Homes* (May 2022), *https://www.consumerfinance.gov/consumer-tools/educator-tools/resources-for-older-adults/data-spotlight-profiles-of-older-adults-living-in-mobile-homes/;* CFPB, *Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data* (May 2021), *https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf;* CFPB, *Data Point: Asian American and Pacific Islanders in the Mortgage Market: Using the 2020 HMDA Data* (July 2021), *https://files.consumerfinance.gov/f/documents/cfpb_aapi-mortgage-market_report_2021-07.pdf.*

[87] 12 CFR 1026.36(d)(1)(i).

[88] Press Release, CFPB, *CFPB Takes Action Against Castle & Cooke For Steering Consumers Into Costlier Mortgages* (Nov. 7, 2013), *https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-castle-cooke-for-steering-consumers-into-costlier-mortgages/;* Press Release, CFPB, *CFPB Takes Action Against Franklin Loan Corporation for Steering Consumers into Costlier Mortgages* (Nov. 3, 2014), *https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-franklin-loan-corporation-for-steering-consumers-into-costlier-mortgages/;* Press Release, CFPB, *CFPB Orders RPM Mortgage to Pay $19 Million for Steering Consumers Into Costlier Mortgages* (June 5, 2015), *https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-rpm-mortgage-to-pay-19-million-for-steering-consumers-into-costlier-mortgages/;* Press Release, CFPB, *CFPB Takes Action Against Guarantee Mortgage For Loan Originator Compensation Violations* (June 5, 2015), *https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-guarantee-mortgage-for-loan-originator-compensation-violations/.*

[89] CFPB, *Supervisory Highlights, Issue 24, Summer 2021* (June 2021), *https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf;* CFPB, *Supervisory Highlights, Issue 26, Spring 2022* (May 2022), *https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-26_2022-04.pdf.*

and maintain required written policies and procedures reasonably designed to monitor compliance with the requirements concerning prohibited payments to loan originators and the prohibitions on steering, qualification, and identification;[90] and (3) failure of a loan originator organization to ensure employees engaged in loan originator activities are properly licensed and registered in accordance with applicable State and Federal requirements.[91]

*D. Previous Input to the Bureau*

The Bureau has received feedback on Regulation Z's Mortgage Loan Originator Rules through a variety of forums since the Rules were adopted. For example, in 2018, the Bureau published a Request for Information (RFI) on whether, consistent with its statutory authority to prescribe rules pursuant to the Federal consumer financial laws, the Bureau should amend the regulations or exercise the rulemaking authorities that it inherited from certain other Federal agencies.[92] Approximately 29 of the comments submitted in response to the RFI addressed Regulation Z's Mortgage Loan Originator Rules. Commenters included trade, consumer advocacy, industry, and other groups. The Bureau has also received a rulemaking petition seeking certain revisions to the Rules and other Bureau regulations related to mortgage origination practices.[93]

From these and other sources, stakeholders have provided feedback to the Bureau on many aspects of Regulation Z's Mortgage Loan Originator Rules. Some of the topics mentioned were: (1) whether to permit different loan originator compensation for originating State housing finance authority loans as compared to other loans; (2) whether to permit creditors to decrease a loan originator's compensation due to the loan originator's error or to match competition; and (3) how the Rule provisions apply to loans originated by mortgage brokers and creditors differently. The Bureau also has received feedback that Regulation Z's Mortgage Loan Originator Rules provide important consumer protections that have provided benefits to consumers and the market.

The Bureau's experience suggests there is little overlap, duplication, or conflict between Regulation Z's Mortgage Loan Originator Rules and Federal, State, or other rules.

**II. Request for Comment**

Consistent with the section 610 review plan, the Bureau asks the public to comment on the impact of Regulation Z's Mortgage Loan Originator Rules on small entities[94] by reviewing the following factors:

(1) The continued need for the Rules based on the stated objectives of applicable statutes and the Rules;

(2) The complexity of the Rules;

(3) The extent to which the Rules overlap, duplicate or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules;

(4) The degree to which technology, market conditions, or other factors have changed the relevant market since the rule was evaluated, including:

a. How the impacts of the Rules as a whole, and of major components or provisions of the Rules, may differ by origination channel, product type, or other market segment;

b. The current scale of the economic impacts of the Rules as a whole, and of major components or provisions of the Rules, on small entities; and

(5) Other current information relevant to the factors that the Bureau considers in completing a section 610 review under the RFA, as described above.

Where possible, please submit detailed comments, data, and other information to support any submitted positions.

**Rohit Chopra,**

*Director, Consumer Financial Protection Bureau.*

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[90] 12 CFR 1026.36(j); CFPB, *Supervisory Highlights, Issue 8, Summer 2015* (June 2015), *https://files.consumerfinance.gov/f/201506_cfpb_supervisory-highlights.pdf.*

[91] 12 CFR 1026.36(f); CFPB, *Supervisory Highlights, Issue 9, Fall 2015* (Oct. 2015), *https://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf;* CFPB, *Supervisory Highlights, Issue 13, Fall 2016* (Oct. 2016), *https://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf; Press Release, CFPB, Consumer Financial Protection Bureau Sues 1st Alliance Lending, LLC and Its Principals for Alleged Unlawful Mortgage Lending Practices (Jan. 15, 2021), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-sues-1st-alliance-lending-llc-and-its-principals-for-alleged-unlawful-mortgage-lending-practices/.*

[92] 83 FR 12881 (Mar. 26, 2018).

[93] CFPB, *Petition for Rulemaking—William Kidwell Amend Existing Mortgage Regulation,* Docket ID CFPB–2022–0027–0001, *https://www.regulations.gov/document/CFPB-2022-0027-0001.*

[94] For purposes of reviewing the questions for comment, consult the following list of regulatory provisions generally comprising Regulation Z's Mortgage Loan Originator Rules: 12 CFR 1026.25(c)(2), 1026.36(a) and (b), (d) through (j) and accompanying sections in Supplement I to part 1026 of the Official Interpretations.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MB Docket No. 23–78; RM–11946; DA 23–159; FR ID 130447]**

### Television Broadcasting Services Elko, Nevada

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has before it a petition for rulemaking filed by Reno (KENV–TV) Licensee, Inc. (Petitioner), the licensee of KENV–DT, channel 10, Elko, Nevada. The Petitioner requests the substitution of channel 20 for channel 10 at Elko in the Table of Allotments.

**DATES:** Comments must be filed on or before April 17, 2023 and reply comments on or before May 1, 2023.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Scott Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 17th Street NW, Washington, DC 20036.

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

**SUPPLEMENTARY INFORMATION:** In support, the Petitioner states that the Commission has recognized that VHF channels pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and result in large variability in the performance of indoor antennas available to viewers with most antennas performing very poorly on high VHF channels. According to the Petitioner, KENV ''has received numerous complaints from local viewers who can receive signals from other local stations but are unable to receive the Station's over-the-air signal on Channel 10.'' Petitioner asserts that its channel substitution proposal will serve the public interest by ''improving the receivability of the Station's signal and, in turn improve over-the-air service to local viewers.'' An analysis provided by the Petitioner using the Commission's *TVStudy* software tool indicates that no persons within the Station's current noise limited contour will lose service and an additional 1,367 persons are predicted to gain service.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 23–78; RM–11946; DA 23–159, adopted March 1, 2023, and released March 1, 2023. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

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

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in Section 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

*See* Sections 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73 Television.**

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

**Proposed Rule**

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

## PART 73—RADIO BROADCAST SERVICE

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

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

■ 2. In § 73.622, in the table in paragraph (j), under Nevada, revise the entry for Elko to read as follows:

**§ 73.622 Digital television table of allotments.**

* * * * *

(j) * * *

| Community | Channel No. |
|---|---|
| * * * * * | |
| **Nevada** | |
| * * * * * | |
| Elko | 20 |
| * * * * * | |

[FR Doc. 2023–05227 Filed 3–15–23; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 23–186; MB Docket No. 23–45; RM–11945; FR ID 130686]**

## Radio Broadcasting Services; Peach Springs, Arizona

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by ITM, LLC, proposing to amend the FM Table of Allotments, by substituting Channel 287A for vacant Channel 280A at Peach Springs, Arizona to accommodate the hybrid modification application for Station KIDD(FM) that proposes to upgrade from Channel 280A to Channel 280C2 at Fort Mohave, Arizona. A staff engineering analysis indicates that Channel 287A can be allotted to Peach Springs, Arizona, consistent with the minimum distance separation requirements of the Commission's rules, with a site restriction of 12.6 km (7.8 miles) northeast of the community. The reference coordinates are 35–33–18 NL and 113–18–02 WL.

**DATES:** Comments must be filed on or before May 1, 2023, and reply comments on or before May 16, 2023.

**ADDRESSES:** Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the counsel to petitioner as follows: Mark B. Denbo, c/o ITM, LLC, SMITHWICK & BELENDIUK, P.C., 5028 Wisconsin Avenue NW, Suite 301, Washington, DC 20016.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2054.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Federal Communications Commission's (Commission) Notice of Proposed Rule Making, MB Docket No. 23–45, adopted March 7, 2023, and released March 8, 2023. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs.* The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at *https://www.fcc.gov/edocs.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

Federal Communications Commission.

**Nazifa Sawez,**

*Assistant Chief, Audio Division, Media Bureau.*

**Proposed Rules**

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

## PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. In § 73.202, in paragraph (b), amend the Table of FM Allotments under Arizona by revising an entry for ''Peach Springs'' to read as follows:

**§ 73.202 Table of Allotments.**

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

| [U.S. States] | Channel No. |
|---|---|
| * * * * * | |
| **Arizona** | |
| * * * * * | |
| Peach Springs | 287A |
| * * * * * | |

* * * * *

[FR Doc. 2023–05341 Filed 3–15–23; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### 49 CFR Part 367

**[Docket No. FMCSA–2023–0008]**

**RIN 2126–AC62**

## Fees for the Unified Carrier Registration Plan and Agreement

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** FMCSA is proposing to amend regulations for the annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2024 registration year and subsequent registration years. The fees for the 2024 registration year would be reduced below the fees for 2023 by approximately 9 percent overall, with varying reductions between $4 and $3,453 per entity, depending on the applicable fee bracket.

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

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2023–0008 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2023-0008/document.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* (202) 493–2251.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Riddle, Director, Office of Registration and Safety Information, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, *FMCSAMCRS@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

FMCSA organizes this NPRM as follows:

I. Public Participation and Request for Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy
II. Executive Summary
A. Purpose and Summary of the Regulatory Action
B. Costs and Benefits
III. Abbreviations
IV. Legal Basis
V. Background
VI. Discussion of Proposed Rulemaking
VII. Section-by-Section Analysis
VIII. Regulatory Analyses
A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
B. Congressional Review Act
C. Regulatory Flexibility Act
D. Assistance for Small Entities
E. Unfunded Mandates Reform Act of 1995
F. Paperwork Reduction Act
G. E.O. 13132 (Federalism)
H. Privacy
I. E.O. 13175 (Indian Tribal Governments)
J. National Environmental Policy Act of 1969

## I. Public Participation and Request for Comments

### *A. Submitting Comments*

If you submit a comment, please include the docket number for this NPRM (FMCSA–2023–0008), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2023-0008/document,* click on this NPRM, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

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

### *B. Viewing Comments and Documents*

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2023-0008/document* and choose the document to review. To view comments, click this NPRM, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through

Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

*C. Privacy*

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14—Federal Docket Management System), which can be reviewed at *https://www.govinfo.gov/content/pkg/FR-2008-01-17/pdf/E8-785.pdf.*

## II. Executive Summary

*A. Purpose and Summary of the Regulatory Action*

Under 49 U.S.C. 14504a, the UCR Plan and the 41 States participating in the UCR Agreement collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors (UCR Plan Board): 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA. Revenues collected are allocated to the participating States and the UCR Plan.

In accordance with 49 U.S.C. 14504a(d)(7) and (f)(1)(E)(ii), the UCR Plan Board provides fee adjustment recommendations to the Secretary when revenue collections result in a shortfall or surplus from the amount authorized by statute. If there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan's depository, and fees in subsequent fee years must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct provisions each contribute to the fee adjustment in this NPRM, which proposes to reduce by approximately 9 percent the annual registration fees established pursuant to the UCR Agreement for the 2024 registration year and subsequent years.

*B. Costs and Benefits*

The changes proposed in this NPRM would reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier or other covered entity might realize a reduced burden, fees are considered by the Office of Management and Budget (OMB) Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

## III. Abbreviations

APA Administrative Procedure Act
CBI Confidential Business Information
CE Categorical Exclusion
CFR Code of Federal Regulations
CMV Commercial Motor Vehicle
DOT Department of Transportation
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FR Federal Register
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
OOIDA Owner-Operator Independent Drivers Association
PIA Privacy Impact Assessment
PTA Privacy Threshold Assessment
RFA Regulatory Flexibility Act
SBA Small Business Administration
SBREFA Small Business Regulatory Enforcement Fairness Act of 1996
Secretary Secretary of Transportation
UCR Unified Carrier Registration
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

## IV. Legal Basis

This rulemaking would adjust the annual registration fees required by the UCR Agreement established by 49 U.S.C. 14504a. The fee adjustments are authorized by 49 U.S.C. 14504a because the total revenues collected for previous registration years exceed the maximum annual revenue entitlements of $107.78 million distributed to the 41 participating States plus the amount established for administrative costs associated with the UCR Plan and Agreement. The UCR Plan Board submitted the requested adjustments in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which provides for the UCR Plan Board to request an adjustment by the Secretary of Transportation (the Secretary) when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds from previous registration years held by the UCR Plan in its depository, after distribution to the States and for payment of administrative costs, shall be retained and the fees charged shall be reduced by the Secretary accordingly, (49 U.S.C. 14504a(h)(4)).

The UCR Plan Board must also obtain DOT approval to revise the total revenue to be collected, in accordance with 49 U.S.C. 14504a(d)(7). This rulemaking would grant the UCR Plan Board's requested increase in total revenues to be collected to address anticipated increased costs of administering the UCR Agreement. No changes in the revenue allocations to the participating States were recommended by the UCR Plan Board or would be authorized by this rulemaking.

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).

## V. Background

This NPRM follows a 2022 final rule (Fees for the Unified Carrier Registration Plan and Agreement, final rule) published on September 1, 2022 (87 FR 53680), as corrected on September 8, 2022 (87 FR 54902). That final rule reduced the fees by approximately 31 percent from the fees for 2022.

On November 18, 2022, the UCR Plan Board recommended that FMCSA reduce the fees for 2024 no later than September 1, 2023, to allow collections to begin on October 1, 2023. This recommendation and supporting documents are available in the docket for this rulemaking. In addition to the fee recommendation information from the UCR Plan Board, this submission also included an explanation of the basis for the recommendation and the procedures the UCR Plan followed in developing it. This fee recommendation also included an accounting of the methodology used when calculating the fee, which will facilitate public comment and allow replication of the analysis in the UCR Plan's recommendation.

## VI. Discussion of Proposed Rulemaking

This NPRM proposes to reduce fees by approximately 9 percent for the 2024 registration year, compared to the fees for 2023. The UCR Plan Board slightly modified its methodology for developing the recommendation from previous years, when it was based on minimum collections, as the previous methodology consistently resulted in an underestimation of collections. The UCR Plan Board's recommendation now uses an average of the historical monthly collections over the prior 3-year period to determine projected collections, which will yield a more accurate result. For more information about this change in the methodology, please see the UCR Plan Board's recommendation, which is available in the docket for this rulemaking.

The UCR Plan Board did not make a fee recommendation for the 2025 registration year, but the recommendation for the 2024 registration year anticipates an increase in fees for 2025, following the large fee decreases in the previous years.

## VII. Section-by-Section Analysis

FMCSA proposes to revise 49 CFR 367.30 (which was adopted in the 2022 final rule) so that the fees apply to registration year 2023 only. A new § 367.40 proposes to establish new reduced fees applicable beginning in registration year 2024, based on the recommendation submitted by the UCR Plan Board in its November 18, 2022, Fee Recommendation. The fees in proposed new § 367.40 would remain in effect for subsequent registration years after 2024 unless revised by a future rulemaking.

## VIII. Regulatory Analyses

### *A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

FMCSA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

The changes proposed by this rule would reduce the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier would realize a reduced burden, fees are considered by OMB Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rulemaking would establish reductions in the annual registration fees for the UCR Plan and Agreement. The entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the State UCR revenue entitlements would remain unchanged, the participating States would not be impacted by this rule. The primary impact of this rule would be a reduction in fees paid by individual motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The reduction in fees for the 2024 registration year from the current 2023 registration year fees (approved on September 1, 2022) would be approximately 9 percent, ranging from $4 to $3,453 per entity, depending on the number of vehicles owned or operated by the affected entities.

### *B. Congressional Review Act*

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).[1]

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA),[2] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

This rulemaking would directly affect the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by SBREFA, the participating States are not small entities. States are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under section 601(5) of the RFA, both because State government is not included among the various levels of government listed in section 601(5), and because, even if this were the case, no State or the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under section 601(5) of the RFA.

The Small Business Administration's (SBA's) size standard for a small entity (13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule would have an impact on a significant number of small entities, FMCSA examined the 2012 and 2017 Economic Census data for two different North American Industry Classification System (NAICS) industries: Truck Transportation (subsector 484) and Transit and Ground Transportation (subsector 485).

As shown in the table below, the SBA size standards for the national industries under the Truck Transportation and Transit and Ground Transportation subsectors range from $16.5 million to $38 million in revenue per year.

To determine the percentage of firms that have revenue at or below SBA's thresholds within each of the NAICS national industries, FMCSA examined data from the 2017 Economic Census.[3] In instances where 2017 data were suppressed, the Agency imputed 2012 data.[4] Boundaries for the revenue categories used in the Economic Census do not exactly coincide with the SBA thresholds. Instead, the SBA threshold generally falls between two different revenue categories. However, FMCSA was able to make reasonable estimates as to the percentage of small entities within each NAICS code.

The percentages of small entities with annual revenue less than the SBA's threshold ranged from 92.4 percent to 100 percent. Specifically, approximately 92.4 percent of Charter Bus Industry (485510) firms had annual revenue less

[1] A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 802(4)).

[2] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

[3] U. S. Census Bureau. *2017 Economic Census.* Table EC1700SIZEEMPFIRM—Selected Sectors: Employment Size of Firms for the U.S.: 2017. Available at: *https://www.census.gov/data/tables/2017/econ/economic-census/naics-sector-48-49.html* (accessed Feb. 3, 2023).

[4] U. S. Census Bureau. *2012 Economic Census.* Table EC1248SSSZ4—Transportation and Warehousing: Subject Series—Estab & Firm Size: Summary Statistics by Revenue Size of Firms for the U.S.: 2012 Available at: *https://www.census.gov/data/tables/2012/econ/census/transportation-warehousing.html* (accessed Feb. 3, 2023).

than the SBA's revenue threshold of $16.5 million and would be considered small entities. FMCSA estimates 100 percent of firms in the Mixed Mode Transit Systems (485111) national industry had annual revenue less than $25.5 million and would be considered small entities. The table below shows the complete estimates of the number of small entities within the national industries that may be affected by this rule.

ESTIMATES OF NUMBER OF SMALL ENTITIES

| NAICS code | Description | SBA size standard in millions | Total number of firms | Number of small entities | Percent of all firms |
|---|---|---|---|---|---|
| 484110 | General Freight Trucking, Local | $30.0 | 22,066 | 21,950 | 99.5 |
| 484121 | General Freight Trucking, Long Distance, Truckload | 30.0 | 23,557 | 23,045 | 97.8 |
| 484122 | General Freight Trucking, Long Distance, Less Than Truckload. | 38.0 | 3,138 | 3,050 | 97.2 |
| 484210 | Used Household and Office Goods Moving | 30.0 | 6,097 | 6,041 | 99.1 |
| 484220 | Specialized Freight (except Used Goods) Trucking, Local. | 30.0 | 22,797 | 22,631 | 99.3 |
| 484230 | Specialized Freight (except Used Goods) Trucking, Long Distance. | 30.0 | 7,310 | 7,042 | 96.3 |
| 485111 | Mixed Mode Transit Systems | 25.5 | 25 | 25 | 100 |
| 485113 | Bus and Other Motor Vehicle Transit Systems | 28.5 | 318 | 308 | 96.9 |
| 485210 | Interurban and Rural Bus Transportation | 28.0 | 309 | 302 | 97.7 |
| 485320 | Limousine Service | 16.5 | 3,706 | 3,649 | 98.5 |
| 485410 | School and Employee Bus Transportation | 26.5 | 2,279 | 2,226 | 97.7 |
| 485510 | Charter Bus Industry | 16.5 | 1,031 | 953 | 92.4 |
| 485991 | Special Needs Transportation | 16.5 | 2,592 | 2,512 | 96.9 |
| 485999 | All Other Transit and Ground Passenger Transportation. | 16.5 | 1,071 | 1,044 | 97.5 |

Therefore, while FMCSA has determined that this rulemaking would impact a substantial number of small entities, it has also determined that the rulemaking would not have a significant impact on them. The effect of this rulemaking would be to reduce the annual registration fee that motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will be approximately 9 percent on average, ranging from $4 to $3,453 per entity, depending on the number of vehicles owned and/or operated by the affected entities. While the RFA does not define a threshold for determining whether a specific regulation results in a significant impact, the SBA, in guidance to government agencies, provides some objective measures of significance that the agencies can consider using. One measure that could be used to illustrate a significant impact is labor costs; specifically, whether the cost of the regulation exceeds 1 percent of the average annual revenues of small entities in the sector. Given that entities owning between 0 and 2 CMVs would experience an average reduction of $4, a small entity would need to have average annual revenue of less than $400 to experience an impact greater than 1 percent of average annual revenue. This is an average annual revenue that is smaller than would be required for a firm to support one employee. The reduced fee amount and impact on revenue increase linearly depending on the applicable fee bracket.

Consequently, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

*D. Assistance for Small Entities*

In accordance with section 213(a) of SBREFA, FMCSA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to SBA's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see *https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman*) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

*E. Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538, UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $178 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2021 levels) or more in any 1 year. Though this NPRM would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, the Agency discusses the effects of this rule elsewhere in this preamble.

*F. Paperwork Reduction Act*

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*G. E.O. 13132 (Federalism)*

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

FMCSA has determined that this rule would not have substantial direct costs

on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

*H. Privacy*

The Consolidated Appropriations Act, 2005,[5] requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,[6] requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form.

No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The DOT Privacy Office has determined that this rulemaking does not create privacy risk.

*I. E.O. 13175 (Indian Tribal Governments)*

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*J. National Environmental Policy Act of 1969*

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, 6.h. The categorical exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to regulation implementing procedures to collect fees that will be charged for motor carrier registrations. The proposed requirements in this rule are covered by this CE.

**List of Subjects in 49 CFR Part 367**

Intergovernmental relations, Motor carriers, Brokers, Freight Forwarders.

Accordingly, FMCSA proposes to amend Title 49 CFR, subtitle B, chapter III, part 367 as follows:

## PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 continues to read as follows:

**Authority:** 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

■ 2. Revise § 367.30 to read as follows:

**§ 367.30 Fees under the Unified Carrier Registration Plan and Agreement for Registration Year 2023**

TABLE 1 TO § 367.30—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2023

| Bracket | Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per entity for broker or leasing company |
|---|---|---|---|
| B1 | 0–2 | $41 | $41 |
| B2 | 3–5 | 121 | |
| B3 | 6–20 | 242 | |
| B4 | 21–100 | 844 | |
| B5 | 101–1,000 | 4,024 | |
| B6 | 1,001 and above | 39,289 | |

[5] Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

[6] Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

■ 3. Add a new § 367.40 to read as follows:

**§ 367.40 Fees Under the Unified Carrier Registration Plan and Agreement for Registration Years Beginning in 2024 and Each Subsequent Registration Year Thereafter.**

TABLE 1 TO § 367.40—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEARS BEGINNING IN 2024 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

| Bracket | Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per entity for broker or leasing company |
|---|---|---|---|
| B1 | 0–2 | $37 | $37 |
| B2 | 3–5 | 111 | |
| B3 | 6–20 | 221 | |
| B4 | 21–100 | 769 | |
| B5 | 101–1,000 | 3,670 | |
| B6 | 1,001 and above | 35,836 | |

Issued under authority delegated in 49 CFR 1.87.

**Robin Hutcheson,**

*Administrator.*

[FR Doc. 2023–05292 Filed 3–15–23; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 223

**[Docket No. 230309–0070; RTID 0648–XR120]**

## Proposed Rule To List the Sunflower Sea Star as Threatened Under the Endangered Species Act

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We, NMFS, have completed a comprehensive status review for the sunflower sea star, *Pycnopodia helianthoides,* in response to a petition to list this species as threatened or endangered under the Endangered Species Act (ESA). Based on the best scientific and commercial information available, including the draft status review report, and after taking into account efforts being made to protect the species, we have determined that the sunflower sea star is likely to become an endangered species within the foreseeable future throughout its range. Therefore, we propose to list the sunflower sea star as a threatened species under the ESA. Should the proposed listing be finalized, any protective regulations under section 4(d) of the ESA would be proposed in a separate **Federal Register** notice. We do not propose to designate critical habitat at this time because it is not currently determinable. We are soliciting information to inform our final listing determination, as well as the development of potential protective regulations and critical habitat designation.

**DATES:** Comments on the proposed rule to list the sunflower sea star must be received by May 15, 2023. Public hearing requests must be made by May 1, 2023.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2021–0130, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2021–0130 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Dayv Lowry, NMFS West Coast Region Lacey Field Office, 1009 College St. SE, Lacey, WA 98503, USA.
- *Fax:* 360–753–9517; Attn: Dayv Lowry.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered 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 personally identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The petition, draft status review report (Lowry *et al.* 2022), **Federal Register** notices, and the list of references can be accessed electronically online at: *https://www.fisheries.noaa.gov/species/sunflower-sea-star.* The peer review plan and charge to peer reviewers are available at *https://www.noaa.gov/organization/information-technology/peer-review-plans.*

**FOR FURTHER INFORMATION CONTACT:** Dayv Lowry, NMFS, West Coast Region Lacey Field Office, (253) 317–1764.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 18, 2021, we received a petition from the Center for Biological Diversity to list the sunflower sea star (*Pycnopodia helianthoides*) as a threatened or endangered species under the ESA. On December 27, 2021, we published a positive 90-day finding (86 FR 73230, December 27, 2021) announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. We also announced the initiation of a status review of the species, as required by section 4(b)(3)(A) of the ESA, and requested information to inform the agency's decision on whether this species warrants listing as threatened or endangered.

*Listing Species Under the Endangered Species Act*

To make a determination whether a species is threatened or endangered under the ESA, we first consider whether it constitutes a ''species'' as defined under section 3 of the ESA, and then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include subspecies and, for any vertebrate species, any distinct population segment (DPS) which interbreeds when mature (16 U.S.C. 1532(16)). Because the sunflower sea star is an invertebrate, the ESA does not permit us to consider listing DPSs.

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' Thus, in the context of the ESA, we interpret an ''endangered species'' to be one that is presently in danger of extinction, while a ''threatened species'' is not currently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). The primary statutory difference between a threatened and endangered species is the timing of when a species is in danger of extinction, either presently (endangered) or not presently but within the foreseeable future (threatened). Being in danger of extinction ''presently'' does not mean that the possible extinction event is necessarily now.

When we consider whether a species qualifies as threatened under the ESA, we must consider the meaning of the term ''foreseeable future.'' It is appropriate to interpret ''foreseeable future'' as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. What constitutes the foreseeable future for a particular species depends on factors such as life history parameters, habitat characteristics, availability of data, the nature of specific threats, the ability to predict impacts from threats, and the reliability of forecasted effects of these threats on the status of the species under consideration. Because a species may be susceptible to a variety of threats for which different data are available, or which operate across different time scales, the foreseeable future may not be reducible to a discrete number of years.

Section 4(a)(1) of the ESA requires us to determine whether a species is endangered or threatened throughout all or a significant portion of its range as a result of any one, or a combination of, the following factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1)). We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts, if any, being made by any state or foreign nation (or subdivision thereof) to protect the species (16 U.S.C. 1533(b)(1)(A)).

**Status Review**

After publishing the 90-day finding indicating that listing may be warranted for the sunflower sea star, the NMFS West Coast Regional Office convened a Status Review Team (SRT) composed of marine biologists, ecologists, statisticians, and natural resource managers from the NMFS Alaska and West Coast Regional Offices; NMFS Alaska, Northwest, and Southwest Fisheries Science Centers; United States Geological Survey; and Monterey Bay National Marine Sanctuary. This team also received input from state, provincial, tribal, non-profit, and academic experts. The SRT compiled and synthesized all available information into a comprehensive draft status review report (Lowry *et al.* 2022, see **ADDRESSES** section). The draft status review report summarizes the best available scientific and commercial information on the biology, ecology, life history, and status of the sunflower sea star, as well as stressors and threats facing the species. The SRT also considered information submitted by the public in response to our 90-day petition finding (86 FR 73230; December 27, 2021).

The draft status review report is undergoing independent peer review as required by the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004) concurrent with public review of this proposed rule. Independent specialists were selected from the academic and scientific community, with expertise in sea star biology, conservation policy, and applied natural resource management. The peer reviewers were asked to evaluate the adequacy, appropriateness, and application of data used in the status review, including the extinction risk analysis. The peer review plan and charge statement are available on NOAA's website (see **ADDRESSES** section). All peer reviewer comments will be made publicly available and addressed prior to dissemination of the final status review report and publication of the final listing decision.

Below is a summary of the biology and ecology of the sunflower sea star, accompanied by an evaluation of threats facing the species, and resulting extinction risk. This information is presented in greater detail in the draft status review report (Lowry *et al.* 2022), which is available on our website (see **ADDRESSES** section). In addition to evaluating the status review, we independently applied the statutory provisions of the ESA, including evaluation of protective efforts set forth in section 4(b)(1)(A) and our regulations regarding listing determinations at 50 CFR part 424, to making our determination that the sunflower sea star meets the definition of a threatened species under the ESA.

**Description, Life History, and Ecology of the Petitioned Species**

*Species Taxonomy and Description*

The sunflower sea star was originally described as *Asterias helianthoides* by Brandt (1835), a species of sea star unique in having 16 to 20 rays (arms) and found in coastal marine waters near Sitka, Alaska. Stimpson (1861) later designated it as the type species of the new genus *Pycnopodia* and as the only known species of the family Pycnopodiidae. Fisher (1922) described the Pacific starfish *Lysastrosoma anthosticta* as a new species, stating it was closely related to *Pycnopodia,* and subsequent authors have included only these two species in the subfamily Pycnopodiinae. *Pycnopodia helianthoides* has no known synonyms, and the validity of the species has not been questioned in the taxonomic literature. Therefore, based on the best available scientific and commercial information, we find that the scientific consensus is that *P. helianthoides* is a taxonomically distinct species and, therefore, meets the definition of ''species'' pursuant to section 3 of the ESA. Below, we evaluate whether this species warrants listing as endangered or threatened under the ESA throughout all or a significant portion of its range.

The sunflower sea star is among the largest sea stars in the world, reaching over 1 meter (m) in total diameter from ray tip to ray tip across the central disk.

The sunflower sea star and closely related Pacific starfish are distinguished from other co-occurring sea stars by their greatly reduced abactinal (dorsal) skeleton with no actinal plates, and by their prominently crossed pedicellariae (Fisher 1928). Very young sunflower sea stars generally have fewer than a dozen arms, and additional arms are added by budding in symmetrical pairs as the individual grows. Other sea stars in the northern Pacific Ocean with many arms include several sun stars of the genera *Solaster, Crossaster,* and *Rathbunaster;* however, these species generally have 8 to 17 arms, as opposed to the 16 to 20 arms commonly found in the sunflower sea star, and all of the sun stars are considerably smaller and less massive (Fisher 1906).

*Range, Distribution, and Habitat Use*

The documented geographic range of the sunflower sea star spans the Northeastern Pacific Ocean from the Aleutian Islands to Baja California (Sakashita 2020). This range includes 33 degrees of latitude (3,663 km) across western coasts of the continental United States, Canada, and northern Mexico. The farthest reaches of sunflower sea star observations include: northernmost—Bettles Bay, Anchorage, Alaska (Gravem *et al.,* 2021); westernmost—central and eastern Aleutian Islands (Kuluk Bay, Adak Island east to Unalaska Island, Samalga Pass, and Nikolski) (Feder 1980; O'Clair and O'Clair 1998; Jewett *et al.* 2015; Gravem *et al.* 2021); and southernmost—Bahia Asunción, Baja California Sur, Mexico (Gravem *et al.* 2021). The sunflower sea star is generally most common from the Alaska Peninsula to Monterey, California.

The sunflower sea star has no clear associations with specific habitat types or features and is considered a habitat generalist (Gravem *et al.* 2021 and citations therein). The large geographic and depth range of the sunflower sea star indicates this species is well adapted for a wide variety of environmental conditions and habitat types. The species is found along both outer coasts and inside waters, which consist of glacial fjords, sounds, embayments, and tidewater glaciers. Preferring temperate waters, they inhabit kelp forests and rocky intertidal shoals (Hodin *et al.* 2021), but are regularly found in eelgrass meadows as well (Dean and Jewett 2001; Gravem *et al.* 2021). Sunflower sea stars occupy a wide range of benthic substrates including mud, sand, shell, gravel, and rocky bottoms while roaming in search of prey (Konar *et al.* 2019; Lambert *et al.* 2000). They occur in the low intertidal and subtidal zones to a depth of 435 m but are most common at depths less than 25 m and rare in waters deeper than 120 m (Fisher 1928; Lambert 2000; Hemery *et al.* 2016; Gravem *et al.* 2021). This characterization of their prevalence across depth ranges, however, may be biased by: (1) differential sampling methods and effort, with SCUBA-based observations dominating records; and (2) the propensity to record all sea stars as ''sea star unidentified'' when they occur as incidental bycatch in various survey and fishery records.

*Reproduction, Growth, and Longevity*

Most sea star species, including the sunflower sea star, have separate sexes that are externally indistinguishable from one another, and each ray of an adult contains a pair of gonads (Chia and Walker 1991). In the sunflower sea star, gonads are elongated, branched sacs that fill the length of each ray when ripe (Chia and Walker 1991). Gametes are broadcast through gonopores on each ray into the surrounding seawater and fertilization occurs externally. Fertilized larvae develop through pelagic planktotrophic stages, capturing food with ciliary bands (Strathmann 1971; 1978; Byrne 2013).

A number of environmental factors, such as food availability, seawater temperature, photoperiod, salinity, and the lunar cycle, may control seasonality of sea star reproductive cycles (Chia and Walker 1991; Pearse *et al.* 1986). Although the reproductive season of several Northeast Pacific sea stars have been estimated by following oocyte-diameter frequency distributions (*e.g.,* Farmanfarmaian *et al.* 1958; Mauzey 1966; Pearse and Eernisse 1982), to the best of our knowledge no one has conducted such studies in free-ranging sunflower sea stars. However, a number of researchers have estimated reproductive seasonality of the species based on observations of either field or laboratory spawning. Mortenson (1921) reported that sunflower sea stars breed from May through June at Nanaimo, British Columbia, while Greer (1962) collected adult broodstock from the intertidal zone at San Juan Island, Washington, and reported spawning in March and April. Feder (1980) obtained fertilizable eggs from December through June in California, and Strathmann (1987) stated that spawning occurs from late March through July, peaking from May through June with some large males spawning into December and January. More recently, Hodin *et al.* (2021) suggested that the reproductive season for females begins in November through January and ends in April and May in Washington. It is possible that a slightly altered photoperiod and constant availability of food for these lab-held specimens, however, may have caused individuals to exhibit altered reproductive seasonality, explaining the apparent discrepancy. Hodin *et al.* (2021) also note that the reproductive season for females occurs later in Alaska.

Typically, sea stars with planktotrophic larval (*i.e.,* reliant on planktonic prey) development from the Northwest Pacific Ocean spawn in late winter or early spring, which provides the best growing conditions for their offspring by synchronizing their occurrence with the spring phytoplankton bloom (Menge 1975; Strathmann 1987). The spawning seasons of several other sea stars with planktotrophic larval development in the Pacific Northwest and on the U.S. West Coast occurs between March and August (Mortensen 1921; Farmanfarmaian *et al.* 1958; Mauzey 1966; Feder 1980; Fraser *et al.* 1981; Pearse and Eernisse 1982; Strathmann 1987; Pearse *et al.* 1988; Sanford and Menge 2007). In addition, many temperate sea stars, such as the ochre star (*Pisaster ochraceus*), have seasonal, cyclical feeding patterns, such that feeding activity is reduced during the late fall and winter (Feder 1980; Mauzey 1966; Sanford and Menge 2007). This may also be the case for the sunflower sea star but direct documentation of this phenomenon is lacking. Planktotrophic larvae of the sunflower sea star developing during winter (November to February) in the Northeast Pacific Ocean would be at a distinct disadvantage due to the scarcity of planktonic algae at that time.

We were unable to find direct estimates of fecundity for female sunflower sea stars anywhere in the literature or in unpublished records. However, Strathmann (1987) states that ripe ovaries of specimens about 60 cm across may weigh 400 to 800 grams (g). Comparing this estimate with fecundity estimates for the ochre star, a Northeast Pacific sea star that has similar egg size and reproductive strategy, may give some insight to potential fecundity of the sunflower sea star. Menge (1974) estimated that a typically sized female ochre star weighing 400 g wet weight would produce ~40 million eggs, representing an average of 9 to 10 percent of wet weight being put into reproductive effort. As the wet weight of ochre stars ranges up to 650 g (Menge 1975), a female of this size could spawn considerably many more than 40 million eggs in a season. However, Fraser *et al.* (1981) believed that Menge's (1974) estimate of 40 million

eggs for a 400 g adult was somewhat high and calculated that a specimen weighing 315 g would produce ~8 million total eggs. Given that sunflower sea stars can grow to a massive five kilograms (kg) (Fisher 1928; Lambert 2000), and assuming sunflower sea stars and ochre stars invest similar resources into reproductive efforts, it is conceivable that a 4.5 kg female sunflower sea star could produce upwards of 114 million eggs in a gonadal cycle using the conservative estimate of Fraser *et al.* (1981). This level of potential egg production is comparable to estimates for the crown-of-thorns sea star, *Acanthaster* spp. (Babcock *et al.* 2016), potentially making the sunflower sea star one of the most fecund sea stars in the world. This high potential fecundity is debatable, however, given recent observations of gonad size in captive sunflower sea stars. Hodin *et al.* (2021) noted that even when reproductively mature, gonads tend to be no more than a few centimeters in length, which is small relative to other sea stars of the Northwest Pacific Ocean.

Regarding size at sexual maturity, near Bremerton, Washington, Kjerskog-Agersborg (1918) noted that maturity is not entirely dependent on size. While females are on the average larger than males, immature individuals of both sexes were found across a broad range of sizes—including some of the largest individuals sampled. In a status assessment conducted for the International Union for Conservation of Nature (IUCN), Gravem *et al.* (2021) state that no studies have been conducted specifically on the age at maturity for the sunflower sea star, but estimate it to be at least five years based on the age of first reproduction for the ochre star (Menge 1975; Chia and Walker 1991).

Without additional information on the size at first maturity, fecundity, reproductive seasonality, and reproductive senescence of the sunflower sea star, and how these demographic parameters vary throughout the range of the species, it is impossible to accurately predict annual reproductive output of populations or to adequately evaluate resiliency and rebound potential in response to environmental perturbations. Indications from other sea stars, however, suggest that reproductively viable females can produce at least tens of millions of eggs annually, possibly for several decades. Under appropriate environmental conditions, this represents considerable reproductive and recruitment potential.

Sea stars may modify their behavior during spawning in ways that improve the chances of egg fertilization, including aggregating, modifying their positions and postures, and spawning synchronously (Strathmann 1987; Chia and Walker 1991; Dams *et al.* 2018). Although many sea stars appear to aggregate during spawning (Strathmann 1987; Minchin 1987; Chia and Walker 1991; Babcock and Mundy 1992; Raymond *et al.* 2007; Himmelman *et al.* 2008; Dams *et al.* 2018), it is uncertain whether sunflower sea stars do so. Kjerskog-Agersborg (1918) studied sunflower sea stars in Puget Sound at Bremerton, WA, and suggested that individuals migrated to shallower waters during the spawning season and were present in large aggregations at this time of year. A number of other sea stars move into shallow water during the spawning season, supporting that movement into shallow water may be an adaptive behavior that promotes fertilization (Babcock *et al.* 2000). Some fertilization rate modeling results for the crown-of-thorns sea star *Acanthaster* spp. (Babcock *et al.* 1994) indicate that shallower water increases fertilization rates relative to deeper water because of reduced dilution of gametes in waters shallower than 5 m (Babcock *et al.* 2000).

Many sea stars arch their bodies upward, remaining in contact with the substratum by the tips of their arms during spawning. This posture elevates the gonopores through which gametes are shed into the flow field (Galtsoff and Loosanoff 1939; Strathmann 1987; Minchin 1987; Chia and Walker 1991; Dams *et al.* 2018). Dams *et al.* (2018) used laboratory experimentation and theoretical modeling to show that an arched posture promoted downstream dispersion of gametes and was more effective than stars lying in the flat position. It is common knowledge that sunflower sea stars also arch their bodies upward in this characteristic spawning posture. Although we were unable to locate specific reference in the scientific literature, there are numerous photographs and depictions of sunflower sea stars assuming this spawning posture on the internet (*e.g., https://www.kuow.org/stories/scientists-race-to-rescue-world-s-fastest-sea-star-from-oblivion*).

Since released gametes (especially sperm) may remain viable for as little as two hours (Strathmann 1987; Benzie and Dixon 1994), many sea stars increase the chances of egg fertilization by spawning synchronously (Feder and Christensen 1966; Babcock and Mundy 1992; Babcock *et al.* 1994; Mercier and Hamel 2013). In many published observations of sea star spawning, males consistently spawned before females (Mercier and Hamel 2013). Even though synchronous spawning is necessary for successful fertilization to occur, synchronization must be accompanied by relatively close proximity for successful fertilization (Mercier and Hamel 2013). There is conflicting information regarding whether synchronous aggregative spawning is exhibited by the sunflower sea star, but evidence from ecologically similar sea star species and anecdotal observations for the sunflower sea star strongly suggest this is the case. If this is the case, when population abundance declines below levels that ensure contact of distributed eggs and sperm with one another, Allee effects may hinder population persistence and/or recovery (Lundquist and Botsford 2004; 2011). Standard population models predict that a reduction in adult density should be associated with a decrease in intraspecific competition leading to an increase in growth rate, survival, and gamete production. However, these advantages may be countered by decreases in the rate of successful fertilization among sparsely distributed individuals (Levitan 1995; Levitan and Sewell 1998; Gascoigne and Lipcius 2004). Fertilization success may be a limiting factor in reproduction, and hence recruitment. We did not find published data from directed studies of natural fertilization success in the sunflower sea star.

Several researchers have, with varying degrees of success, attempted to rear sunflower sea stars and describe early embryonic and larval development through to metamorphosis (Mortensen 1921; Greer 1962; Strathmann 1970; 1978; Chia and Walker 1991; Hodin *et al.* 2021). Greer (1962) reported that time from fertilization to metamorphosis for larvae from San Juan Islands, Washington, ranged from 60 to 70 days when reared at 10 to 12 °C. Strathmann (1978) reported that time from fertilization through to settling ranged from 90 to 146 days at natural local water temperatures (7 to 13 °C) encountered in the San Juan Islands, Washington, in the late 1960s. Hodin *et al.* (2021) reared sunflower sea stars from Washington at 9 °C and 14 °C and observed first spontaneous settlement of larvae at seven weeks when held at 10 to 11 °C. Peak metamorphosis occurred at eight weeks in larvae derived from Alaskan broodstock, compared to 11 weeks for larvae from Washington broodstock. Hodin *et al.* (2021) reported that larvae first became competent to metamorphose at seven weeks post-

fertilization at 10 to 11 °C, compared to the nine weeks reported by Greer (1962) when reared at 10 to 12 °C. Together, these studies indicate that larval duration may be as short as seven weeks or as long as 21, and that temperature is a key parameter determining the extent of this period.

Unlike the pentaradial symmetry of adult sea stars, larvae are bilaterally symmetrical (Chia and Walker 1991). The bipinnaria larva is characterized by two bilaterally symmetrical ciliary bands and an open, functional gut (McEdward *et al.* 2002). Both the bipinnaria, and the later-stage brachiolaria, ingest diatoms and other single-celled algae, and may also utilize dissolved organic matter nutritionally (Chia and Walker 1991). Bipinnaria larvae of the sunflower sea star were estimated to form on the fifth (Greer 1962) or sixth day (Hodin *et al.* 2021) after fertilization.

To understand the population dynamics of the sunflower sea star on a range-wide basis it is crucial to develop an understanding of larval longevity and capacity for dispersal. Time from egg fertilization to metamorphosis for the sunflower sea star under various conditions has been described as 49 to 77 days (Hodin *et al.* 2021), 60 to 70 days (Greer 1962), and 90 to 146 days (Strathmann 1978). As noted by Gravem *et al.* (2021), broadcast spawning with a long pelagic larval duration has the potential for broad larval dispersal, especially in open coastal areas with few geographic barriers. Along more heterogeneous, complex shorelines like those found inside the Salish Sea or Southeast Alaska, however, complex flow patterns may result in localized entrainment of larval and reduce dispersal capacity.

Minimum and maximum dispersal periods based on laboratory studies of planktotrophic larvae reveal how varying environmental and nutritional conditions influence the extent of the planktonic period (Pechenik 1990). Basch and Pearse (1996) showed that sea star larvae grown in phytoplankton-rich conditions had greater survival, were in better condition, settled and metamorphosed sooner, and produced larger juveniles compared to larvae grown in low food concentrations. Planktotrophic larvae of many sea star species can delay metamorphosis in the absence of suitable settlement cues (Metaxas 2013), and are capable of long-range dispersal (Scheltema 1986; Metaxas 2013). Although mortality of sea star larvae during the planktonic larval stage has not been measured, it is expected to be high (Metaxas 2013), and it is likely that delaying metamorphosis would expose larvae to an additional period of predatory pressure (Basch and Pearse 1996) and stress associated with limited food availability. Strathmann (1978) found the maximum time to settlement in culture for sunflower sea star to be 21 weeks and emphasized that the duration of pelagic larval life is important in recruitment dynamics and, ultimately, to the distribution of a species.

Sea star larvae may respond to a suite of biological, chemical, and/or physical cues that induce metamorphosis and settlement, including the presence of coralline algae, microbial films, and kelp (Metaxas 2013). Hodin *et al.* (2021) state that competent sunflower sea star larvae will settle spontaneously, as well as in response to a variety of natural biofilms. Settlement is greatly enhanced when larvae are presented with a biofilm collected in the presence of adult sunflower sea stars, or if larvae are exposed to fronds of the articulated coralline alga, *Calliarthron tuberculosum.*

It is generally accepted that planktotrophic larvae are typically dispersed considerable distances away from adult populations and have little impact on recruitment to the natal habitat (Sewall and Watson 1993; Robles 2013). However, Sewell and Watson (1993) described a situation at the semi-enclosed bay of Boca del Infierno (Nootka Island, British Columbia) where larvae were entrained and settled within the adult habitat, contributing to the source population. During three years between 1987 and 1991, sunflower sea star recruits were observed on *Sargassum muticum* on the floor of the channel leading into the bay (Sewell and Watson 1993). In general, sea stars are thought to have relatively low annual recruitment punctuated by unusually strong settlement in some years (Sanford and Menge 2007), the so-called boom and bust cycle characteristic of a broad diversity of marine fishes and invertebrates with planktonic larval dispersal (*e.g.,* McLatchie *et al.* 2017; Schnedler-Meyer *et al.* 2018).

Larvae of sea stars are capable of regenerating lost body parts much like adults (Vickery and McClintock 1998; Vickery *et al.* 2002; Allen *et al.* 2018) and may also reproduce asexually through the process of larval cloning—budding off of tissue fragments that regenerate into complete larvae (Bosch *et al.* 1989; Rao *et al.* 1993; Jaeckle 1994; Knott *et al.* 2003). Recently, Hodin *et al.* (2021) reported that larvae of the sunflower sea star also have the capability to clone in a laboratory setting, describing cloning as ''commonplace'' in all larval cultures. The degree to which larval sunflower sea stars clone in nature may have profound implications for life history (*e.g.,* fecundity, dispersal distance), population dynamics, and population genetic structure (Knott *et al.* 2003; Balser 2004; Rogers-Bennett and Rogers 2008; Allen *et al.* 2018; 2019).

In a recent review of asexual reproduction in larval invertebrates, Allen *et al.* (2018) tabulated the potential benefits of larval cloning as: (1) increasing female fecundity without an apparent increase in resource allocation to reproduction; (2) increasing the likelihood that a member of a genet (*i.e.,* group of cloned individuals) survives; (3) increasing the probability that a member of a genet will locate a suitable settlement site by sampling a greater geographic area; and (4) reducing the genet's susceptibility to predation and other loss by increasing the number and decreasing the size of propagules. On the other hand, Allen *et al.* (2018) listed likely costs associated with larval cloning as: (1) a decrease in larval feeding rate during fission; (2) a decrease in larval growth rate; (3) an increase in the time to metamorphosis; and (4) a decrease in juvenile size. Larval cloning has the potential to alter several aspects of sunflower sea star life history by increasing actualized fecundity, larval dispersal distance, and chances of successful settlement of a larva or at least its genetically identical clone (Bosch *et al.* 1989; Balser 2004; Rogers-Bennett and Rogers 2008; Allen *et al.* 2019). Balser (2004) noted that cloning serves to increase female fecundity to >1 juvenile per egg, altering recruitment intensity. Without additional information about environmental impacts on cloning rate, this lack of a one-to-one relationship between female productivity and realized recruitment potential complicates estimation of stock-recruit relationships. Allen *et al.* (2019) emphasized that ignoring the impacts of planktonic cloning meant that both realized reproductive output and larval dispersal period had been underestimated in prior population modeling efforts for sea stars (Rogers-Bennett and Rogers 2008). To date, evidence of the existence of sexually mature sea star individuals in wild populations that originated from cloned larvae is lacking for any species (Knott *et al.* 2003), including the sunflower sea star. Thus, despite a demonstrated capacity to clone as larvae, estimates of female fecundity considered in the draft status review report (Lowry *et al.* 2022) are limited to gross estimates of egg

production on a seasonal basis, which, as noted above, are tenuous at best.

No studies have been conducted to establish natural growth rates throughout the lifespan of the sunflower sea star, due in part to the difficulty of tagging and effectively tracking individuals. The IUCN assessment for the sunflower sea star lists several observations of juvenile growth rates from anecdotal observations and laboratory studies as being between 3 and 8 cm/yr, and 2 cm/yr for mid-sized individuals (Gravem *et al.* 2021). Hodin *et al.* (2021) reared post-metamorphic, laboratory-cultured sunflower sea stars and the fastest growing individuals were able to reach a diameter of 3 cm in 288 days (about 9.5 months) post-settlement. Juveniles reared by Hodin *et al.* (2021) grew slowly for several months after settlement, but grew faster after they reached about 10 cm in diameter, at which time they could feed on live juvenile bivalves. Laboratory estimates may not be entirely representative of growth rates in the field because sea star growth is affected by water temperature and food availability (Gooding *et al.* 2009; Deaker *et al.* 2020; Dealer and Byrne 2022). Sea star growth rate also generally decreases with increasing size of individuals (Carlson and Pfister 1999; Keesing 2017). Some sea stars can persist for long periods with little or no food (Nauen 1978; Deaker *et al.* 2020; Byrne *et al.* 2021), potentially complicating estimates of age based on size and resulting in episodic growth only when resources are adequate to exceed base metabolic needs.

In one of the few published reports of sunflower sea star growth under pseudonatural conditions, Miller (1995) described growth of juveniles found on settlement collectors (*i.e.,* Astroturf-coated PVC tubes) on the Oregon coast. When fed crushed prey, juveniles grew from a mean arm length (AL) of 0.41 mm at first sampling, to a mean AL of 3.65 mm at 63 days, and 5 to 6 mm AL at 99 days. Thus, juveniles increased in size by a factor of nearly nine times after two months and up to 14 times after three months from sampling (Miller 1995).

In response to the call for public comments on our 90-day finding for the petition to list the sunflower sea star under the ESA (86 FR 73230; December 27, 2021), we received a dataset demonstrating growth of putative cohorts of juvenile sunflower sea stars from Holmes Harbor on the east side of Whidbey Island, in the Southern Salish Sea, Washington (K. Collins, pers. comm., March 20, 2022). During repeated SCUBA-based sampling of the size distribution of populations of sunflower sea stars at several index sites between March of 2020 and 2022, recruitment pulses of individuals could be identified from frequency of occurrence data. Between March of 2020 and March of 2021, the average diameter of one such group of juvenile sunflower sea stars increased 7.99 cm, from ~9 to 17 cm. This annual growth rate aligns with the rapid growth period identified by Hodin *et al.* (2021), concomitant with the ability to consume small bivalves. While this estimate is for one small population in the Salish Sea and is cohort-based rather than based on tracking target individuals, it provides insight into the growth of juvenile sunflower sea stars that is not available elsewhere.

The longevity of sunflower sea stars in the wild is unknown, as is the age at first reproduction (as noted above) and the period over which a mature individual is capable of reproducing, but these parameters are needed to calculate generation time. It is also unknown if, or how much, any of these crucial life history parameters vary across the range of the species. The IUCN assessment for the sunflower sea star used a generic echinoderm equation to estimate generation times as 20.5 to 65 years or 27 to 37 years, depending on maximum longevity (reaching maximum size observed of 95 to 100 cm diameter) or more typical longevity (time to reach 50 cm diameter) estimated from two different growth models (Gravem *et al.* 2021). These generation time figures utilized an estimated age at first reproduction of five years, based on the ochre star and other species, as this information is not available for the sunflower sea star (Gravem *et al.* 2021).

*Diet and Feeding*

Larval and pre-metamorphic sunflower sea stars are planktonic feeders and no data exist to suggest a prey preference at this stage. The diet of adult sunflower sea stars generally consists of benthic and mobile epibenthic invertebrates, including sea urchins, snails, crab, sea cucumbers, and other sea stars (Mauzey *et al.* 1968; Shivji *et al.* 1983), and appears to be driven largely by prey availability. Sea urchins were the major dietary component in the intertidal regions along the outer coast of Washington in a study by Mauzey *et al.* (1968). For sunflower sea stars inhabiting kelp forests in central California, however, 79 percent of the diet was gastropods, and only four sea urchins were found in the guts of 41 adults (Herrlinger 1983). Sunflower sea stars also feed on sessile invertebrates, such as barnacles and various bivalves (Mauzey *et al.* 1968). Mussels are a common prey in intertidal regions in Alaska (Paul and Feder 1975). Clams can also constitute a major proportion of their diet, with up to 72 percent coming from clams at subtidal sites within Puget Sound (Mauzey *et al.* 1968). Adults excavate clams from soft or mixed-substrate bottoms by digging with one or more arms (Smith 1961; Mauzey *et al.* 1968). Sunflower sea stars locate their prey using chemical signals in the water and on substrate, and may show preference for dead or damaged prey (Brewer and Konar 2005), likely due to reduced energy expenditure associated with catching and subduing active prey; thus they occasionally scavenge fish, seabirds, and octopus (Shivji *et al.* 1983).

*Population Demographics and Structure*

Prior to the onset of the coast-wide sea star wasting syndrome (SSWS) pandemic in 2013 (see evaluation of threats below), directed population monitoring for the sunflower sea star was haphazard and typically the result of short-term research projects rather than long-term monitoring programs. Such efforts were rarely focused on the sunflower sea star itself, but it was often included as one component of the local invertebrate assemblage, and generally it was secondary to the primary species of interest. Indigenous peoples occupying lands along the Pacific Coast of North America from Alaska to California have long known of the sunflower sea star, have included the species in artistic works, and have recognized the important ecological role it plays. However, no oral histories or other traditional ecological knowledge that directly addressed long-term population distribution or abundance could be found. In response to the 90-day finding on the petition to list the sunflower sea star (86 FR 73230; December 27, 2021), several First Nation and tribal entities contacted us to provide recent monitoring data, which was integrated into the draft status review report as much as possible (Lowry *et al.* 2022). Most of the datasets lacked pre-2013 (*i.e.,* before the SSWS pandemic) occurrence records, however, and could not be used to quantitatively evaluate trends in abundance or density relative to baseline values.

Recent descriptions of sunflower sea star distribution and population declines by Harvell *et al.* (2019), Gravem *et al.* (2021), and Hamilton *et al.* (2021) relied on datasets gathered either exclusively or predominantly during the 21st century and, in some cases, as a direct response to losses due to SSWS. The most intense loss occurred over just

a few years from 2013 through 2017, generally commencing later in more northern portions of the range, and impacts varied by region. Hence, our understanding of the historical abundance of the sunflower sea star is patchy in both time and space, with substantial gaps.

Summary data presented in Gravem *et al.* (2021) indicate that prior to the 2013 through 2017 SSWS outbreak the sunflower sea star was fairly common throughout its range, with localized variation linked to prey availability and various physiochemical variables. Starting in 2012, Konar *et al.* (2019) assessed rocky intertidal populations in the Gulf of Alaska and described sunflower sea stars prior to the 2016 wasting outbreak as ''common'' toward the northwest part of the species' range in the Katmai National Park and Preserve near Kodiak Island, AK (0.038/$m^2$ in 2012 and 0.048/$m^2$ in 2016, respectively). Abundances during this pre-pandemic period varied geographically, from infrequent in Kachemak Bay (<0.005 $m^2$), to fairly common in the Kenai Fjords National Park (~0.075/$m^2$), and common in western Prince William Sound (average 0.233/$m^2$) (Konar *et al.* 2019). In subtidal rocky reefs near Torch Bay, Southeast Alaska, densities were high ($0.09 \pm 0.055/m^2$) in the 1980s (Duggins 1983). In Howe Sound, near Vancouver, British Columbia, densities were high at $0.43 \pm 0.76/m^2$ in 2009 and 2010 before the SSWS pandemic (Schultz *et al.* 2016). Montecino-LaTorre *et al.* (2016) found that sunflower sea star abundance averaged 6 to 14 individuals per roving diver survey throughout much of the Salish Sea from 2006 through 2013. In deep water habitats off the coasts of Washington, Oregon, and California, 2004 through 2014 pre-outbreak biomass averaged 3.11, 1.73, and 2.78 kg/10 ha, respectively (Harvell *et al.* 2019). In 2019, a remotely operated vehicle survey of the Juan de Fuca Canyon encountered a number of large sunflower sea stars at depths ranging from 150 to 350 m (OCNMS 2019). While population connections between these sea stars and those in shallow water remain unknown, this suggests that deep waters may serve as a biomass reservoir for the species (J. Waddell, Olympic Coast National Marine Sanctuary, pers. comm., March 15, 2022).

Along the north and central California coastline, average population densities were 0.01–0.12/$m^2$ prior to 2013 (Rogers-Bennett and Catton 2019). The oldest density records come from kelp forests near central California in Monterey Bay, where densities were 0.03/$m^2$ in 1980 and 1981 (Herrlinger 1983). More recently in central California, densities were even lower and fluctuated from 0.01–0.02/$m^2$ between 1999 and 2011 (Smith *et al.* 2021). In southern California, sites in the Channel Islands have been studied extensively, and from 1982 through 2014 densities ranged from 0 to 0.25/$m^2$ (Bonaviri *et al.* 2017), from 1996 through 1998 they were 0 to 0.02 $m^2$ (Eckert 2007), from 2003 through 2007 they were 0 to 0.07$m^2$ (Rassweiler *et al.* 2010), and from 2010 through 2012 they were ~0.10 to 0.14/$m^2$ (Eisaguirre *et al.* 2020).

The pattern of decline by latitude as a consequence of the SSWS pandemic in 2013 (see evaluation of threats below) is striking. Hamilton *et al.* (2021) noted a 94.3 percent decline throughout the range of the sunflower sea star after the outbreak of SSWS. The 12 regions defined by Hamilton *et al.* (2021) encompass the known range of the sunflower sea star, and each region exhibited a decline in density and occurrence from approximately 2013 through 2017, with populations in the six more northern regions characterized by less severe declines (40 to 96 percent declines) than those in the six regions spanning from Cape Flattery, WA, to Baja, MX, where the sunflower sea star is now exceptionally rare (99.6 to 100 percent declines). Furthermore, while anecdotal observations indicate recruitment continues in the U.S. portion of the Salish Sea, British Columbia, and Alaska, few of these juveniles appear to survive to adulthood (A. Gehman, University of British Columbia and the Hakai Institute, pers. comm., February 16, 2022). We are not aware of any observations of sunflower sea star recruits or adults in California or Mexico since 2017 despite continued survey effort in these areas.

There are not, to date, any range-wide or regional assessments of systematic variation in life history parameters, morphological characteristics, genetic traits, or other attributes that can be used to delineate specific populations of sunflower sea stars. As such, we have no direct biological data to establish that the species is anything but a single, panmictic population throughout its range. As habitat generalists that use a wide variety of substrates over a broad depth range, and dietary generalists that consume diverse prey based largely on prey availability and encounter rate, differentiation of subpopulations is not expected to be driven by strong selection for particular environmental needs. In the 2020 IUCN status assessment report (Gravem *et al.* 2021), putative population segments were identified largely based on a combination of legal and geographic boundaries/barriers and data provided in response to a broad request distributed to natural resource managers and academic researchers. For instance, data from both trawl and SCUBA diving surveys were considered together to describe population trends in a region defined as ''Washington outer coast,'' which spanned from Cape Flattery to the Washington-Oregon border.

Because sunflower sea stars are relatively sessile in the settled juvenile through adult life stages, any population structuring is likely attributable to dispersion during the pelagic larval phase. This is a common feature of broadcast spawning, benthic, marine organisms, and population breaks in such organisms are typically associated with strong biogeographic features where current flows diverge or stop (*i.e.,* Queen Charlotte Sound, Point Conception), if such features exist. Within a given biogeographic region, such organisms typically exhibit either genetic homogeneity for species with prolonged pelagic larval phases or, for species with shorter pelagic larval duration, a stepping-stone dispersal resulting in isolation-by-distance. Within the historical range of the sunflower sea star, there are two major biogeographic regions (Longhurst 2007), the ''Alaska Coastal Downwelling Province'' and the ''California Current Province.'' These regions are essentially formed by the bifurcation of the North Pacific Current into the northward-flowing Alaska Current and the southward-flowing California Current. This bifurcation occurs in the vicinity of Vancouver Island, though the exact location varies with shifting climatic conditions and bulk water transport processes, with a transition zone between Queen Charlotte Sound and Cape Flattery (Cummins and Freeland 2007).

For some echinoderm species that have been more thoroughly examined, regional variation in phenotypic and genetic traits along the west coast of North America have been documented. Bat stars (*Patiria miniat*a) largely overlap with the sunflower sea star in geographic range and depth distribution, and share similar planktonic larval duration, so can potentially be used as a proxy to make demographic inferences. Keever *et al.* (2009) used a combination of mitochondrial and nuclear markers to study bat stars range-wide and provided support for two genetically distinct populations, essentially split across Longhurst's (2007) biogeographic provinces. Within the California Current

Province there was little detectable genetic structure, but within the Alaska Coastal Downwelling Province there was a high degree of structure, potentially as a consequence of the geographic complexity within this region as compared with the California Coast Province. Gene flow simulations showed that larvae of the bat star don't disperse far despite a relatively long pelagic larval duration (Sunday *et al.* 2014). The red sea urchin (*Strongylocentrotus franciscanus*) also overlaps in range, depth, and duration of planktonic dispersal with sunflower sea star but shows no clear signal of genetic partitioning (Debenham *et al.* 2000) throughout its range. Similarly, the ochre star exhibits similar life history parameters but shows no genetic partitioning (Harley *et al.* 2006). Overall, the lack of demonstrated genetic structure in these co-occurring echinoderm species suggests that sunflower sea stars may also lack population structure, but no genetic studies currently exist that would allow us to confirm or refute this assumption.

**Assessment of Extinction Risk**

Using the best available scientific and commercial data relevant to sunflower sea star demography and threats, the SRT undertook an assessment of extinction risk for the species. The ability to measure or document risk factors and quantify their explicit impacts to marine species is often limited, and quantitative estimates of abundance and life history information are sometimes lacking altogether. Therefore, in assessing extinction risk of this data-limited species, we relied on both qualitative and quantitative information. In previous NMFS status reviews, assessment teams have used a risk matrix method to organize and summarize the professional judgment of members. This approach is described in detail by Wainwright and Kope (1999) and has been used in Pacific salmonid status reviews, as well as in reviews of various marine mammals, bony fishes, elasmobranchs, and invertebrates (see *https://www.nmfs.noaa.gov/pr/species/* for links to these reviews). In the risk matrix approach, the condition of a species is summarized according to four viable population factors: abundance, growth rate/productivity, spatial structure/connectivity, and diversity (McElhany *et al.* 2000). These viable population factors reflect concepts that are well-founded in conservation biology and that, individually and collectively, provide strong indicators of extinction risk. Employing these concepts, the SRT conducted a demographic risk analysis for the sunflower sea star to determine population viability. Likewise, the SRT performed a threats assessment by scoring the severity of current threats to the species and their likely impact on population status into the foreseeable future. The summary of demographic risks and threats obtained by this approach was then considered to determine the species' overall level of extinction risk, ranked either low, moderate, or high, both currently and in the foreseeable future. Further details on the approach and results are available in Lowry *et al.* (2022).

For the assessment of extinction risk for the sunflower sea star, the ''foreseeable future'' was considered to extend out 30 years based on several lines of evidence, though numerous assumptions had to be made due to missing information. Limited data are available regarding sunflower sea star longevity, age at sexual maturity, size at sexual maturity, fecundity, reproductive life span, spawning frequency, and other fundamental biological attributes. Further, the degree to which these parameters might vary over the range of the species is unknown. Gravem *et al.* (2021) estimated the generation time of the sunflower sea star to vary between 20.5 and 65 years based on a generalized echinoderm model, but used an estimate of 27 to 37 years for the 2020 IUCN assessment. Monitoring data for the sunflower sea star at locations spread throughout its range documented extremely rapid, dramatic declines from 2013 to 2017 as a consequence of SSWS. Despite considerable research since, the causative agent of SSWS remains elusive, as does the environmental trigger or triggers that led to the pandemic. Extending and augmenting the analysis of Gravem *et al.* (2021), Lowry *et al.* (2022) demonstrated that if post-pandemic negative trends in population abundance continue, extinction risk is high in the immediate and foreseeable future. If pre-pandemic population growth rates resume, however, the likelihood of long-term persistence is moderate to high, depending on region. Which of these scenarios is more likely depends on disease resistance, current local population dynamics, and a myriad of environmental factors affecting both the sunflower sea star and the SSWS agent(s). If individuals that survived the pandemic are able to successfully reproduce over the next several years, and ocean conditions are adequate to support larval survival and settlement, a substantive recruitment pulse could result. Whether the causative agent of SSWS exists in an environmental or biological reserve, however, is also unknown. If it does, any recruitment pulse could be short lived and individuals may not survive to reproduce themselves. There is a high level of uncertainty regarding potential outcomes, and predictive capacity is limited as a consequence of the unique combination of ocean conditions and disease prevalence in recent years.

After considering the best available information on sunflower sea star life history (including its mean generation time), projected abundance trends, likelihood of a resurgence of SSWS to pandemic levels, and current and future management measures, the SRT concluded that after 30 years uncertainty in these factors became too great to reliably predict the biological status of the species. Though potential threats like nearshore habitat degradation and anthropogenic climate change can be projected further into the future, the SRT concluded that the impacts of these threats on the sunflower sea star could not be adequately predicted given the behavioral patterns of the species with regard to habitat use and diet. Whether population segments occupying deep waters will fare better than those in the shallows, and to what degree these populations are linked, cannot be adequately predicted given limited knowledge of sunflower sea star biology and demography. Given the demonstrated capacity of SSWS to kill billions of individuals across the entire range of the species over just a few years, the SRT felt that reliably assessing the effects of additional threats on species viability beyond the temporal range of 30 years was not possible.

**Demographic Risk Analysis**

*Methods*

The SRT reviewed all relevant biological and commercial data and information for the sunflower sea star, including: current abundance relative to historical abundance estimates, and trends in survey data; what is known about individual growth rate and productivity in relation to other species, and its effect on population growth rate; spatial and temporal distribution throughout its range; possible threats to morphological, physiological, and genetic integrity and diversity; and natural and human-influenced factors that likely cause variability in survival and abundance. Each team member then assigned a risk score to each of the four viable population criteria (abundance, productivity, spatial distribution, and diversity) throughout the whole of the

species' range. Risks for each criterion were ranked on a scale of 0 (unknown risk) to 3 (high risk) using the following definitions:

0 = *Unknown:* Information/data for this demographic factor is unavailable or highly uncertain, such that the contribution of this factor to the extinction risk of the species cannot be determined.

1 = *Low risk:* It is unlikely that the particular factor directly contributes significantly to the species' current risk of extinction, or will contribute significantly in the foreseeable future (30 years).

2 = *Moderate risk:* It is likely that the particular factor directly contributes significantly to the species' current risk of extinction, or will contribute significantly in the foreseeable future (30 years), but does not in itself currently constitute a danger of extinction.

3 = *High risk:* It is highly likely that the particular factor directly contributes significantly to the species' current risk of extinction, or will contribute significantly in the foreseeable future (30 years).

Team members were given a template to fill out and asked to score each criterion's contribution to extinction risk. Scores were provided to the team lead, anonymized, then shared with the entire team, which discussed the range of perspectives and the supporting data/information upon which they were based. Team members were given the opportunity to revise scores after the discussion, if they felt their initial analysis had missed any pertinent data discussed in the group setting. Final scores were reviewed and considered, then synthesized, to arrive at the overall demographic risk determination from the team. Further details are available in Lowry *et al.* (2022).

*Abundance*

Severe declines in nearly all available datasets, range-wide from 2013 through 2017 are readily apparent, with little evidence of recent recruitment or rebound (Gravem *et al.* 2021; Lowry *et al.* 2022). While variability in abundance estimates was high prior to the SSWS pandemic and boom/bust cycling was apparent in many areas, detection rates have been very low since approximately 2015 in the majority of time series datasets. Datasets from the Oregon and California coasts are notable because they report several years of regular observation of sunflower sea stars leading up to 2013, followed by several years of absence at the same index sites. In locations where individuals continued to be detected after the pandemic, like in northern Oregon, density decreased by an order of magnitude or more. Data providers for these time series categorize the near or total loss of sunflower sea stars in their survey area as local or functional extirpation, but other researchers and the public have reported juveniles in several of these areas (*e.g.,* the Channel Islands), demonstrating that some reproduction and settlement is occurring. In areas where adults have not been detected for several years, the potential for deleterious stochastic events, such as marine heat waves, to destroy what remains of the population is likely to be considerably increased. Abundance prior to the SSWS pandemic was substantially greater in northern portions of the range from Alaska to the Salish Sea, and declines in these areas were less pronounced (Gravem *et al.* 2021; Lowry *et al.* 2022).

The current range-wide (*i.e.,* global) population estimate for the sunflower sea star is nearly 600 million individuals, based on a compilation of the best available science and information (Gravem *et al.* 2021). While substantial, this represents less than 10 percent of the estimated abundance prior to 2013 and likely reflects an even greater decrease in biomass due to the loss of adults from SSWS. However, there is considerable uncertainty in this global abundance estimate and in regional estimates that contribute to it. Low sampling effort prior to the SSWS pandemic, depth-biased disparities in data richness, inadequate species-specific documentation of occurrence, and missing information about several crucial life history parameters all contribute to this uncertainty. While confidence is relatively high in estimates from more southerly, nearshore areas that are well-sampled via SCUBA, the majority of the species' range consists of deep, cold, and/or northern waters that are less well sampled. How segments of the population in these poorly sampled areas contribute to and are connected with the overall health and stability of the species remains largely unknown. Sunflower sea stars in these areas are less susceptible to impacts from nearshore stressors and could serve as source populations to support population rebound, but evidence to support this role is lacking. Based on the broad geographic range over which the remaining population is spread, the generalist nature of the sunflower sea star with regard to both habitat use and diet, and the possibility that deep-water individuals may serve as source populations to bolster recovery, the team concluded that the current state of the abundance criterion was a moderate factor in affecting extinction risk in the foreseeable future.

*Productivity*

Little is known about the natural productivity of the sunflower sea star on both an individual and population basis. Lack of information about growth rate, longevity, age at maturity, fecundity, natural mortality, the influence of larval cloning, and other fundamental biological attributes requires that broad assumptions be applied and proxy species used to inform estimates on both regional and range-wide bases. Regardless of the values of nearly all of these parameters, however, the loss of approximately 90 percent of the global population of the sunflower sea star from 2013 through 2017 is likely to have had profound impacts on population-level productivity. The standing crop of individuals capable of generating new recruits has been decreased, possibly to levels where productivity will be compromised on a regional or global basis. The combined factors of spatial distribution of individuals across the seascape and ocean conditions are crucial to dictating whether productivity is sufficient to allow population rebound. Broadly dispersed individuals may lack the ability to find mates, further reducing realized productivity despite abundance being high enough to theoretically result in population persistence.

As a broadcast spawner with indeterminate growth, traits shared with many other echinoderms, the capacity for allometric increases in fecundity and high reproductive output certainly exists in the sunflower sea star. Hodin *et al.* (2021) noted that gonads are small in sunflower sea stars compared to other sea stars but also documented prolonged periods over which spawning apparently occurs (*i.e.,* gonads are ripe). If the SSWS pandemic resulted in the loss of the large, most reproductively valuable individuals across both nearshore and deep-water habitats, it could take a decade or more for sub-adults to mature, settlement to occur at detectable levels, and population rebounds to be documented. There is evidence in some areas that recruitment has occurred, demonstrating that local productivity is still occurring, but it may be years before these individuals reach maturity and spawn. The ongoing threat of another SSWS pandemic dictates that caution is warranted when predicting population growth rate into the foreseeable future.

Provided reproduction continues to occur, even on a local basis, the prolonged planktonic period of larval sunflower sea stars affords the opportunity for substantial dispersal prior to settlement. During this period, however, larvae are at the mercy of prevailing currents, temperature variation, and a suite of biophysical variables that affect survival. Even if populations maintain relatively high levels of productivity, recent conditions in the northeast Pacific Ocean have not been favorable to larval survival for many species due to repeated marine heat waves, falling pH, and localized oxygen minimum zones. Additionally, given the predominant flow regime along the Pacific West Coast of North America, propagules are expected to be carried both northward and southward from British Columbia following the North Pacific Current as it bifurcates into the Alaska and California Currents, respectively. Given the distance larvae must travel with the currents, populations in British Columbia are not expected to contribute markedly to repopulation in the southern portion of the range off Oregon, California, and Mexico. While the Davidson Countercurrent and California Undercurrent may seasonally carry propagules northward from Mexico and California (Thomas and Krassovski 2010), abundance of the sunflower sea star in this portion of the range is not currently likely to be high enough to serve as a source population to areas off Washington, Oregon, or northern California. Studies of connectivity across the range of the sunflower sea star will be crucial to evaluating how large-scale population patterns are affected by local and regional productivity in the future.

Taking into account the many unknowns about life history, population level reproductive capacity, and functional implications of environmental conditions on population connectivity in the foreseeable future, the productivity criterion was scored as a moderate contributor to overall extinction risk over the foreseeable future, though there was considerable variation in individual team member scores. Depensatory impacts from abundance declines have likely decreased productivity on a local and regional scale, but the adults that remain are assumed to live long enough that opportunities to mate will manifest in time, provided they are able to find one another and mate. Until more is known about the underlying biology of the species, this parameter, and its effects on long-term viability, will remain poorly defined.

*Spatial Distribution and Connectivity*

Despite substantial population declines from 2013 through 2017, sunflower sea stars still occupy the whole of their historic range from Alaska to northern Mexico, though in nearshore areas from the outer coast of Washington to Mexico the species is now rare where it was once common (Gravem *et al.* 2021; Lowery *et al.* 2022). Natural resource managers and researchers in the contiguous United States consider several local populations off Oregon and California to be functionally extirpated, but reports of newly settled juveniles and occasional adults in these regions demonstrate continued occupancy (Gravem *et al.* 2021; Lowery *et al.* 2022). With so few individuals, a new wave of SSWS or other catastrophic event could eliminate the species in these areas. However, the lack of adequate sampling of deep waters and patchy encounter reporting in bottom-contact fisheries with a high likelihood of interaction (*e.g.,* crustacean pot/trap fisheries) introduces sufficient uncertainty to preclude stating that sunflower sea stars have been extirpated throughout this southern portion of their range.

Spatial distribution and connectivity are integrally related with the abundance and productivity criteria. Species occurrence, density, habitat use, and intraspecific interaction rate, alongside environmental parameters, ultimately determine population productivity and abundance. As a habitat generalist with broad resilience to physiochemical environmental variables, the sunflower sea star utilizes most available benthic habitats from the nearshore down to several hundred meters deep throughout its range. Loss of over 90 percent of the population in southern portions of the range almost certainly resulted in population fragmentation, but the only areas where data exist to confirm this are shallow, SCUBA-accessible habitats. Kelp forests and rocky reefs, in particular, are well sampled and may represent key habitats for the sunflower sea star, but regular occurrence on mud, sand, and other soft-bottom habitats is also well documented. Undersampled, deep-water habitats represent the majority of suitable habitat for the sunflower sea star by area, however, additional effort is needed to characterize both how individuals in these waters are distributed and how they are connected with populations in shallow waters. Less accessible nearshore areas, largely those associated with sparsely populated areas, also suffer from undersampling.

Direct evidence to assess the connectivity of sunflower sea star populations at various geographic scales is lacking. Without meristic, morphological, physiological, and/or genetic studies to demonstrate similarities or differences among population segments linkages cannot be adequately evaluated. Broad assumptions can be made about larval distribution as a consequence of prevailing flow patterns, but evidence both for and against connections over large geographic scales for echinoderm populations on the Pacific Coast exist. Population declines associated with the SSWS pandemic were severe enough that historic patterns of spatial distribution and connectivity could have been obliterated in the last decade, and may continue to change into the foreseeable future.

After taking into account the best available information on both the historic and present spatial distribution of the sunflower sea star, spatial distribution was determined to have a moderate contribution to extinction risk. This was largely due to evidence of population fragmentation in nearshore areas and several data series demonstrating very low abundance across broad portions of the range. Connectivity could not be adequately assessed due to a lack of data.

*Diversity*

Systematic comparisons of morphology, life history, behavior, physiology, genetic traits, and other aspects of diversity do not exist for the sunflower sea star. While some authors note that animals in the northern portion of the range grow to a large diameter and mass, this general statement is not supported by data. As a result of this lack of information, adequately evaluating the impact of this parameter on extinction risk is difficult. Data from proxy species, such as the ochre star, demonstrate that variation in physical characteristics such as color can be both genetically and ecologically controlled in sea stars (Harley *et al.* 2006; Raimondi *et al.* 2007). While examples exist of echinoderm species with both substantial population structuring and a complete lack of population structure on the West Coast, where the sunflower sea star falls along this spectrum could not be determined due to the lack of fundamental biological knowledge pertinent to population dynamics. As a result, this criterion was determined to have an unknown contribution to overall extinction risk.

**Threats Assessment**

*Methods*

As noted above, section 4(a)(1) of the ESA requires the agency to determine whether the species is endangered or threatened because of any one, or a combination of, a specific set of threat factors. Similar to the demographic risk analysis, SRT members were given a template to fill out and asked to rank each threat in terms of its contribution to the extinction risk of the species throughout the whole of the species' range. Specific threats falling within the section 4(a)(1) categories were identified from sources included in the status review report, and included as line items in the scoring template (Lowry *et al.* 2022). Below are the definitions that the Team used for scoring:

0 = *Unknown:* The current level of information is insufficient for this threat, such that its contribution to the extinction risk of the species cannot be determined.

1 = *Low:* It is unlikely that the threat is currently significantly contributing to the species' risk of extinction, or will significantly contribute in the foreseeable future (30 years).

2 = *Moderate:* It is likely that this threat will contribute significantly to the species' risk of extinction in the foreseeable future (30 years), but does not in itself constitute a danger of extinction currently.

3 = *High:* It is highly likely that this threat contributes significantly to the species' risk of extinction currently.

The template also included a column in which team members could identify interactions between the threat being evaluated and specific demographic parameters from the viable population criteria analysis, as well as other section 4(a)(1) threats.

Scores were provided to the team lead, anonymized, and then the range of perspectives and the supporting data/information upon which they were based was discussed. Interactions among threats and specific demographic parameters, or other threats, were also discussed to ensure that scoring adequately accounted for these relationships. Team members were then given the opportunity to revise scores after the discussion if they felt their initial analysis had missed any pertinent data discussed in the group setting. Scores were then reviewed, considered, and synthesized to arrive at an overall threats risk determination. Results of this threats assessment are summarized below, and further details are available in Lowry *et al.* (2022).

*The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*

The sunflower sea star is a habitat generalist known to occur in association with a broad diversity of substrate types, grades of structural complexity, and biogenic habitat components. Habitat degradation and modification in nearshore areas of the Pacific Coast as a consequence of direct human influence is largely concentrated in urbanized centers around estuaries and embayments, with considerable tracts of sparsely populated, natural shoreline in between. This is especially true of the northern portion of the range. In urbanized areas, nearshore modification to accommodate infrastructure has dramatically changed the available habitat over the last two hundred years. The relative importance of specific habitats to the range-wide health and persistence of the sunflower sea star is difficult to quantify, however, because suitable habitat occurs well beyond the depth range where most sampling occurs. Human impacts on nearshore habitats and species of the Pacific Coast have long been recognized, and marine protected areas, sanctuaries, and other place-based conservation measures have been created in a variety of jurisdictions in recent decades. While these measures have not explicitly targeted the sunflower sea star, many of them are centered on sensitive habitats (*e.g.,* kelp forests) and provide protections to the ecosystem at large, including sunflower sea stars and their prey. Under current nearshore management practices, the sunflower sea star has persisted in urban seascapes at apparently healthy population levels until very recently, when SSWS resulted in the death of 90 percent or more of the population. As a result, the SRT determined that nearshore habitat destruction or modification was a low-level contributor to overall extinction risk (Lowry *et al.* 2022), although systematic sampling is needed to establish whether certain habitat types are critical to specific life stages or behaviors for the sunflower sea star.

Sunflower sea stars also occur on benthic habitats to depths of several hundred meters, and anthropogenic stressors affecting these offshore waters are markedly different from those affecting the nearshore. Quantifying impacts to sunflower sea star habitat in deeper waters is more complicated, however, and less information is available to support a rigorous evaluation. Fishing with bottom-contact gear, laying communications or electrical cables, mineral and oil exploration, and various other human activities have direct influence on benthic habitats in offshore waters of the North Pacific Ocean. The activities are highly likely to interact with sunflower sea stars at some level, but data are lacking regarding both the distribution of individuals in these deeper waters and impacts from particular stressors. As a result, the SRT determined that effective assessment of the contribution of deep-water habitat modification or destruction on overall extinction risk of the species could not be conducted. Geographic input of all potential stressors in these deep waters is likely to be small relative to the documented range of the sunflower sea star and the SRT determined that the species' adaptability and resilience are unlikely to make habitat impacts in these areas a substantial threat (Lowry *et al.* 2022).

Curtailment of the range of the sunflower sea star has not yet been demonstrated, despite the fact that, since the SSWS pandemic, the species has become rare from the Washington coast south to California, areas where it once was common. The total population estimate for this region still stands at over five million individuals (Gravem *et al.* 2021) and their range north of Washington is vast. Population fragmentation as a consequence of dramatic losses in abundance could result in range curtailment in the foreseeable future, but occasional reports of juvenile sunflower sea stars at locations along the West Coast as far south as the Channel Islands demonstrate that local extirpation has not yet occurred. If juveniles do not mature and successfully reproduce because of a resurgence of SSWS to pandemic levels, or some other factor, a substantial reduction in distribution could occur at the southern extent of the currently documented range. A minority opinion within the SRT was that range curtailment has already occurred from Neah Bay, WA, southward and that remnant populations would soon be eliminated by natural demographic processes.

*Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

There are no substantial current or historical fisheries directed at the sunflower sea star, but recreational harvest is allowed or permitted in Alaska, British Columbia, California, and Mexico and occurs at unquantified levels. Whether collected individuals are held for a short period before being released or permanently removed from the population is unknown. Impacts

from recreational harvest cannot be evaluated because data are not available on either an aggregate or species-specific basis; however, market drivers for this species are minimal and human consumption is not known to occur. As a result, the SRT determined that recreational harvest impacts are a minor factor affecting extinction risk. Recreational harvest and trade may become a greater concern in the foreseeable future in areas where abundance levels are extremely low or declining. Additional regulations prohibiting retention could offset impacts from this potential threat.

Fishery bycatch impacts to the sunflower sea star are a low-level concern for a variety of fisheries that use bottom-contact gear. This includes fisheries for benthic fishes and invertebrates that employ trawls, pots, traps, nets, and, to a limited degree, hook-and-line. Information to quantify the encounter rate in specific fisheries is largely lacking, as are data demonstrating direct impacts of these encounters, and frequent aggregation of all sea star catch into a single reporting category precludes a species-specific assessment. That said, these potential risks are offset by the following observations: (1) the majority of commercial trawl fisheries occur in waters outside of preferred sunflower sea star depth zones (<25 m or 82 ft), based on the information regarding highest documented densities (Gravem *et al.* 2021); and (2) sunflower sea stars are anecdotally reported as being resilient to handling stress during regular fishing operations, though post-release monitoring is not reported in the literature. Post-release, handling-related stress could exacerbate symptoms of SSWS or increase susceptibility to other sources of mortality. This could make handling during fisheries a greater threat in regions where population abundance is especially low, such as from coastal Washington to the southern extent of the species' range. Unfortunately, systematic reporting of encounters with sunflower sea stars does not occur at this time.

The collection, drying, and trade of small ''sunflower stars'' is noted in Gravem *et al.* (2021) and in the ESA-listing petition received from the Center for Biological Diversity. This practice predominantly affects small stars under 15.25 cm in diameter and the retailers that offer these curios often do not list the species, site of collection, or other details necessary to determine whether populations of sunflower sea star are being directly impacted. Given that sea stars can be collected in Alaska, British Columbia, and Mexico, and in California seaward of a tidal exclusion zone, a more thorough evaluation of retail offerings is needed. Without additional information, the SRT unanimously decided that this threat has an unknown, but likely negligible, impact on extinction risk in the foreseeable future due to a lack of demand and no evidence of a substantial market.

*Disease or Predation*

Disease, specifically SSWS, was identified by the SRT as the single greatest threat affecting the persistence of the sunflower sea star both now and into the foreseeable future (Lowry *et al.* 2022). While the etiology of the disease as well as what trigger(s) resulted in its rapid spread to pandemic levels remain unknown (Hewson *et al.* 2018), the widespread occurrence of, and impacts from, the disease from 2013 through 2017 are broadly documented. Initially, SSWS was thought to be caused by one, or a suite, of densoviruses (Paraviridae; Hewson *et al.* 2014; 2018); however, subsequent studies determined that the disease is more complex. A number of factors ranging from environmental stressors to the microbiome in the sea stars may play a role (Lloyd and Pespeni 2018; Konar *et al.* 2019; Aquino *et al.* 2021). Ocean warming has also been linked to outbreaks, hastening disease progression and severity (Harvell *et al.* 2019; Aalto *et al.* 2020). Regardless of the pathogen's unknown etiology to date, stress and rapid degeneration ultimately result with symptomatic sea stars suffering from abnormally twisted arms, white lesions, loss of body tissue, arm loss, disintegration, and death. During the 2013–2017 pandemic, populations of sunflower sea stars were diminished range wide, and in southern portions of the range estimated losses are on the order of 95 percent or more. There was considerable variation in the degree of impact associated with depth, latitude, and (sometimes) recent temperature regime, but projected losses in all regions where data were sufficient amounted to approximately 90 percent or more (Gravem *et al.* 2021). Lowry *et al.* (2022) demonstrate that these declines have continued at least through 2021 in most regions, though recent settlement events have been recorded in the Salish Sea and Alaska. Whether new cohorts will survive long enough to reproduce, or succumb to SSWS, is highly uncertain. Whether reproductive adults that survived the SSWS pandemic will demonstrate resistance or immunity to future outbreaks is also crucial to whether the species will survive. If impacts from SSWS continue at a level that resulted in population declines of greater than 90 percent over a 5-year timespan, extinction risk would be very high for the sunflower sea star. If population growth rates are able to return to pre-pandemic levels in coming years, the likelihood of population persistence is moderate in the Alaska Region and the British Columbia and Salish Sea Region, but lower in the West Coast Region from Washington to Mexico (Lowry *et al.* 2022).

There is no evidence that other known diseases constitute substantial threats to the continued persistence of the sunflower sea star now or in the foreseeable future. However, the SRT noted that a complicating factor is that the physiological response of sea stars to numerous stressors (*e.g.,* high temperature, low dissolved oxygen) is to develop lesions, autotomize arms, and/or disintegrate (Lowry *et al.* 2022). These symptoms, and the ultimate outcome of disintegration, are shared with SSWS, making it possible that a suite of disease pathogens or stressors jointly contribute to the observed syndrome. As the end result of any such disease is mortality within just a few days, the threat from disease still remains high whether SSWS is caused by a single pathogen or many.

Very few predators are known to consume adult sunflower sea stars and this is not expected to change even under generous projections of ecosystem changes as a consequence of global climate change or other factors. Predation risk is likely highest during the planktonic larval phase when indiscriminate filter feeders consume small larvae and selective pickers target larger, more developed individuals. The prolonged duration of the larval period could enhance this risk, but there is no evidence to suggest that current risks of predation are any higher than they were prior to the pandemic when populations were healthy. Additionally, while the fecundity of the sunflower sea star is not well known, even conservative estimates suggest that an individual female likely produces millions of eggs in a single spawning event. As such, the SRT determined that predation is not likely to substantially contribute to extinction risk, now or in the foreseeable future (Lowry *et al.* 2022).

*Inadequacy of Existing Regulatory Mechanisms*

As noted above, in Washington and Oregon harvest and collection of sunflower sea stars are not allowed, but in Alaska, British Columbia, California, and Mexico recreational harvest is permitted. Though data are not available to determine how intensive this harvest is, human consumption is not known to

occur and large markets for dried or otherwise processed specimens do not exist. Considering this information, the SRT determined that the current harvest and collection regulations do not contribute substantially to extinction risk, nor are they likely to in the foreseeable future (Lowry *et al.* 2022). Inconsistency of regulations across jurisdictions could complicate enforcement, however, unless coordinated efforts to standardize or reconcile rules occur. It may also become necessary in the foreseeable future to propose and publicize handling recommendations for bycaught sunflower sea stars to reduce handling stress and mortality, should data support that this is a more significant threat than currently recognized. Draft handling recommendations are currently under development within NOAA Fisheries for use in scientific surveys and will be adapted, as needed, for fisheries.

A patchwork of place-based conservation measures exists across the known range of the sunflower sea star that are designed to protect ecologically sensitive and/or important habitats and species. While none of these are specifically directed at conservation of the sunflower sea star or its habitat, many of them provide indirect protection to the species, its habitat, and its prey.

Current regulations to control anthropogenic climate change are likely insufficient to have a measurable impact on trends in changing ocean conditions, and resulting ecological effects, by the end of the century (Frölicher and Joos, 2010; Ahmadi Dehrashid *et al.* 2022). The effectiveness of regulations controlling anthropogenic climate change is a considerable concern because such regulations affect stressors like elevated sea surface temperature and lowered pH, which have sweeping effects on marine prey base and living conditions (Doney *et al.* 2012). Elevated ocean temperatures likely contributed to the decline of the sunflower sea star because warmer water temperatures are correlated with accelerated rates of SSWS transmission and disease-induced mortality; therefore the lack of adequate regulations to stall the impacts of climate change also presents a direct concern for the long-term viability of the sunflower sea star. There is uncertainty regarding ways in which additional climate change regulations could affect the extinction risk of the sunflower sea star without a better understanding of the relationships between climate change impacts (especially temperature stress), SSWS dynamics, and species-specific disease vulnerability.

The SRT identified considerable uncertainty regarding what regulatory mechanisms might effectively reduce extinction risk as a consequence of SSWS (Lowry *et al.* 2022). While a given disease can sometimes be isolated to a geographic region or eliminated by a combination of quarantine, transport embargos of specimens carrying the pathogen, or the administration of vaccines, these actions all require considerable knowledge of the disease itself. In the case of SSWS, the pathogen has not yet been identified, the cause may be several pathogens with similar etiologies, and the disease has been observed across the full geographic range of the species. For these reasons, while existing regulatory mechanisms are insufficient to address the threat of SSWS, the SRT determined that it is unlikely that any effective regulatory approaches will arise in the foreseeable future without considerable research (Lowry *et al.* 2022).

*Other Natural or Man-Made Factors Affecting Its Continued Existence*

Direct impacts of environmental pollutants to the sunflower sea star are unknown, but they likely have similar effects to those seen in other marine species, given physiologically similar processes. Reductions in individual health and disruption of nutrient cycling through food webs are hallmarks of industrial chemicals, heavy metals, and other anthropogenic contaminants. With the sunflower sea star representing a monotypic genus, the SRT noted substantial uncertainty involved with projecting potential impacts into the foreseeable future, and decided that extrapolating effects of specific chemicals or suites of chemicals to range-wide population viability is impossible (Lowry *et al.* 2022). Any impacts that do exist are likely to be more intensive near their source, such as urban bays and estuaries, though many persistent contaminants are known to bioaccumulate in some organisms and spread over long distances over the course of decades or more.

The addition of anthropogenically released greenhouse gasses into the atmosphere since the industrial revolution has resulted in climate change that is affecting organisms and environments on a global basis. While direct linkages between climate change and sunflower sea star population status have not been made in the literature, impacts to prey base, habitat, and SSWS can all be inferred from available data. Ecosystem change rooted in climate forcers has already been demonstrated in nearshore ecosystems of the north Pacific Ocean (*e.g.,* Bonaviri *et al.* 2017; Berry *et al.* 2021), resulting in prey base instability that adds additional stress to struggling populations. See above for a discussion of how climate change may link to progression and severity of SSWS outbreak as a consequence of changes in sea surface temperature and physiochemical properties of marine waters.

Larval life stages of numerous shell-forming marine organisms are highly sensitive to chemical composition of pelagic waters, such that ocean acidification can increase physiological stress and decrease survival in a broad array of organisms. Additionally, life stages of various planktonic organisms are sensitive to temperature, with elevated temperature increasing metabolic rate and, thus, nutritional requirements. Furthermore, some marine organisms rely on seasonal shifts in temperature and other environmental cues to identify suitable spawning times, aligning planktonic feeding periods of larvae with phytoplankton blooms. Changes in the spatiotemporal availability and quality of prey affect planktotrophic larvae and may result in reduced growth, delayed settlement, starvation, and various other negative outcomes. Though the planktonic diet of sunflower sea star larvae has not been adequately described, it is likely that they consume shell-forming organisms to various degrees depending on spatiotemporal variability in abundance, quality, and encounter rate. Nearshore benthic communities can also be affected in myriad ways by elevated carbon dioxide levels, reduced pH, increased temperature, and other physiochemical changes resulting from anthropogenic climate change. While these effects of climate change are unlikely to affect the sunflower sea star across its full range simultaneously, the SRT noted that decreases in habitat suitability are likely on a localized basis and such stressors could exacerbate consequences of low abundance, especially in southern portions of the range (Lowry *et al.* 2022). High levels of uncertainty regarding complex interactions among climate-related stressors and their impacts on sunflower sea star population viability, however, make it impossible to adequately project effects on extinction risk into the foreseeable future.

**Overall Extinction Risk Summary**

*Throughout the Range of the Species*

Little is known about several fundamental biological aspects of the sunflower sea star, such as age at maturity, longevity, growth rate,

reproductive output, population resiliency, and population connectivity. What is known is that the species is a broadcast spawner, utilizes a broad range of habitats and prey, and has a broad geographic distribution, all of which buffer the species against catastrophic events and reduce overall extinction risk. The abundance and density of the species have clearly declined recently throughout the vast majority of its range; however, data are highly uncertain in deep waters and less accessible/well surveyed regions. Additionally, most current SCUBA- and trawl-based protocols fail to sample small individuals (*e.g.,* those less than 5 cm as measured from arm-tip to arm-tip), making characterization of population status incomplete. In some areas, functional extirpation is likely within the foreseeable future of 30 years due to a lack of mate availability, which constrains reproductive capacity and limits settlement of new cohorts. Best available estimates indicate that the remaining range-wide abundance of the sunflower sea star is approximately 600 million individuals, with the highest abundances in Alaska and British Columbia, primarily in deeper water (at lower densities than observed in shallow, scuba-accessible depths).

Given the widespread impacts of SSWS from 2013 through 2017, it is likely that surviving sunflower sea stars were exposed, giving hope (but no direct evidence) that they bear some resistance to the causative agent of the disease, though this agent remains unknown. SSWS is the single greatest threat to the sunflower sea star on a range-wide basis, and may be exacerbated by global warming, ocean acidification, toxic contaminants, and other processes that generate physiological stress in individuals. A conclusive link has not been demonstrated but is likely given physiology and known stressors of this, and other, sea star species. Regions most likely to be impacted by climate change factors are in the south, where the sunflower sea star population was most heavily impacted by the SSWS pandemic. Fishing pressure (including bycatch), the curio trade, and habitat degradation are threats, but are not anticipated to have population-level impacts in the next 30 years. Regional variability in threat severity could result in total loss of the species in the southern portion of its geographic range, but whether the loss of this portion of the population may compromise the long-term viability of the species is unknown. Overall, threats to population persistence exist, with high uncertainty about potential impacts, and with trajectories in many areas continuing downward. As a result of this analysis of aspects of species viability and threats facing the species, we conclude that the sunflower sea star is at moderate risk of extinction now and in the foreseeable future throughout its range.

*Significant Portion of Its Range*

Under the ESA, a species may warrant listing if it is in danger of extinction now or in the foreseeable future throughout all or a significant portion of its range. Having concluded that the sunflower sea star is at moderate risk of extinction now and in the foreseeable future throughout all of its range, the SRT next conducted an assessment to determine whether it may currently be in danger of extinction in any identified significant portion of its range (SPR). If a species is in danger of extinction in an SPR, the species qualifies for listing as an endangered species (79 FR 37578; July 1, 2014). In 2014, the USFWS and NMFS issued a joint policy on interpretation of the phrase ''significant portion of its range'' (SPR Policy, 79 FR 37578; July 1, 2014). The SPR Policy set out a biologically-based approach for interpreting this phrase that examines the contributions of the members of the species in the ''portion'' to the conservation and viability of the species as a whole. More specifically, the SPR Policy established a threshold for determining whether a portion is ''significant'' that involved considering whether the hypothetical loss of the members in the portion would cause the overall species to become threatened or endangered. This threshold definition of ''significant'' was subsequently invalidated in two District Court cases, which held that it set too high a standard to allow for an independent basis for listing species—*i.e.* it did not give independent meaning to the phrase ''throughout . . . a significant portion of its range'' (*Center for Biological Diversity, et al.* v. *Jewell, 248 F. Supp. 3d 946, 958 (D. Ariz. 2017); Desert Survivors* v. *DOI 321 F. Supp. 3d. 1011 (N.D. Cal., 2018).* However, those courts did not take issue with the fundamental approach of evaluating significance in terms of the biological significance of a particular portion of the range to the overall species. While the SRT did not rely on the definition of ''significant'' in the policy when conducting their analysis, they did use a biological approach to assessing whether any portions of the sea star's range are ''significant.''

To identify potential SPRs for the sunflower sea star, the SRT considered the following: (1) is there one or more population segment at higher risk of extinction relative to population segments elsewhere in the range; and (2) is the higher-risk population segment biologically significant to the overall viability of the species. To analyze whether a portion qualifies as significant the SRT considered the viability characteristics of abundance, productivity, spatial distribution, and genetic diversity. Ultimately, the goal of this analysis was to determine whether the sunflower sea star is in danger of extinction in a significant portion of its range.

To help in identifying potential SPRs, SRT members were provided a base map of the northeast Pacific Ocean labeled with several geophysical features either referenced in the IUCN status assessment of the sunflower sea star (Gravem *et al.* 2021) or known to be associated with demographic breaks in a variety of other marine organisms. Team members independently considered all data and information available on a regional basis to generate proposed areas that could potentially represent SPRs, that is, areas that have a reasonable likelihood of being at high risk of extinction and that have a reasonable likelihood of being biologically significant to the species. These portions were highlighted on the map, and detailed justifications provided regarding the intensity of specific threats to, and biological significance of, the population segment in the identified portion(s). Because there are theoretically an infinite number of ways in which a species' range may be divided for purposed of an SPR analysis, only those portions that the SRT identified as ones where the species has a reasonable likelihood of being both at higher risk of extinction relative to the rest of the range and biologically significant to the overall species were considered further in the analysis.

After considering all available biological, geographic, and flow regime data available; evaluating issues of data resolution, representativeness, and availability; and drawing on proxy species where necessary, the SRT delineated three portions in which trends in biological viability, threat intensity, and likely biological significance were internally consistent. These were: (1) all waters of the range north of Dixon Entrance (*i.e.,* waters of Alaska; Portion 1); (2) coastal British Columbia and the Salish Sea (Portion 2); and (3) all waters of the range south of Cape Flattery, to Baja California, Mexico (Portion 3). In waters shallower than 25 m, where assessment data are most

readily available and comprehensive (Gravem *et al.* 2021; Lowry *et al.* 2022), over 72 percent of the pre-pandemic abundance of sunflower sea stars occupied Portion 1. Portion 2 is estimated to have held approximately 17.5 percent of the population. Despite being geographically extensive, Portion 3 was estimated to be occupied by the remainder of the species, just under 10 percent of the total shallow-water population. It is worth noting that nearly 45 percent of the pre-pandemic population was estimated to occupy waters deeper than 25 m, which are disproportionately located off of Alaska and coastal British Columbia, further amplifying these patterns. Taken together, the SRT determined that these estimates indicate the existence of a population center in the North Pacific, a transition zone along coastal British Columbia and into the Salish Sea, and a southward extension of the species through temperate waters at limited abundance/density until thinning out in the subtropics around the Southern California Bight.

The population center of the sunflower sea star is in Alaskan waters, and the population segment here was less impacted by SSWS with considerably more individuals surviving (over 275 million in shallow waters and as many as 400 million in deep waters [Gravem *et al.* 2021]) and no apparent reduction in spatial distribution. Given this, the SRT determined that the population segment occupying Portion 1 is not at higher risk of extinction than the species overall. Because the status of the species in Portion 1 does not differ from the status throughout the range, the SRT did not continue the analysis further to determine whether Portion 1 constitutes a significant portion of the species' range.

Conversely, waters of Portion 3 are estimated to have held less than ten percent of the pre-pandemic population of species and saw losses >95 percent from 2013 to 2017, with few signs of recovery. While it is possible individuals in this portion that survived the pandemic are disease resistant, or contain genes for thermal tolerance or adaptability to other environmental parameters, data do not exist at this time to support this assertion. Furthermore, being at the southern end of a current system that flows predominantly southward it is unlikely that these traits could be naturally transmitted into northern populations via planktonic drift. Taken together, this caused the SRT to conclude that while risk of extinction may be higher in the southern portion of the range due to dramatically decreased abundance, density, and frequency of occurrence post pandemic, this population segment is not likely to be biologically significant relative to the overall viability of the species. As such, Portion 3 does not constitute a significant portion of the range for ESA status assessment purposes.

Portion 2 is situated where currents flow both north and south into other portions of the range, uniquely positioning it to serve as a biologically significant population with regard to long-term persistence of the sunflower sea star. Higher abundance within the region may allow the population here to contribute to population viability in Southeast Alaska, the Washington coast, and beyond. In addition, while there is recruitment to offshore sites, and relatively healthy populations in some glacial fjords, there is evidence of source/sink dynamics (*i.e.,* areas of high reproductive capacity within the region produce larvae that settle elsewhere in the region) within Portion 2. The possibility of disease resistance in these remaining individuals cannot be discounted, but has not been demonstrated. Persistent low encounter rates in the region, however, suggest a degree of resiliency despite ongoing occurrence of the causative agent of the disease (whatever it may be) in the environment. The Salish Sea region is influenced by a number of other threats, such as toxic contamination, pressure from a diversity of fisheries, and extensive habitat degradation and destruction associated with creation and maintenance of human infrastructure. To assess whether these threats elevated overall extinction risk to high in the biologically significant Portion 2, a second overall extinction risk scoring sheet was distributed and team members independently assessed this region. Though there is a high degree of uncertainty with regard to the potential impact of SSWS and other threats on the population segment in this portion, the SRT determined that overall extinction risk in Portion 2 is moderate, matching that of the range-wide assessment and thereby precluding assignment of high extinction risk to the species based on status within this particular portion of its range.

Given the best available information, we find that the sunflower sea star is at a moderate risk of extinction throughout its range, as well as within Portion 2 (the British Columbia Coast and Salish Sea), the only portion of the range determined to be biologically significant. Without efforts to better understand the etiology of SSWS and identify paths to address its impacts on the sunflower sea star, the species is on a trajectory in which its overall abundance will likely significantly decline within the foreseeable future, eventually reaching the point where the species' continued persistence will be in jeopardy. These declines are likely to be exacerbated by anthropogenic climate change and the resulting impacts on biogeochemical aspects of habitats occupied by the species. Although the species is not currently in danger of extinction throughout its range, it will likely become an endangered species within the foreseeable future.

**Protective Efforts**

Having found that the sunflower sea star is likely to become in danger of extinction throughout its range within the foreseeable future, we next considered protective efforts as required under section 4(b)(1)(A) of the ESA. The focus of this evaluation is to determine whether protective efforts are being made and, if so, whether they are effective in ameliorating the threats we have identified to the species and thus, potentially, avert the need for listing. As we already considered the adequacy of existing regulatory efforts associated with fisheries and place-based ecosystem protections in our evaluation of threats above, we consider other conservation efforts in this section.

Following the 2020 IUCN assessment of the sunflower sea star (Gravem *et al.* 2021), the species was conferred Critically Endangered status on the Red List of Threatened Species (*https://www.iucnredlist.org/species/178290276/197818455*). Subsequent to this, The Nature Conservancy convened a working group made up of state, tribal, Federal, and provincial government; academic; and non-profit partners to create a roadmap to recovery for the species. This document uses the best available science and information to identify specific, targeted research and management efforts needed to address what workgroup participants identify as the greatest threats facing long-term persistence of the sunflower sea star (Heady *et al.* 2022). Many contributors to this document provided data and knowledge to the SRT to ensure all of the most recent research was captured in our analysis (Lowry *et al.* 2022). The roadmap also includes an inventory of knowledge gaps that can be used as a guidance tool by partner organizations to coordinate collaborative research and management directed at sunflower sea star recovery (Heady *et al.* 2022), in many ways paralleling the structure and intent of a formal recovery plan under the ESA.

While we find that protective efforts associated with the roadmap to recovery

will help increase public and scientific knowledge about the sunflower sea star and SSWS, and will likely result in multinational coordination on both research and management, such actions alone do not significantly alter the extinction risk for the sunflower sea star to the point where it would not be in danger of extinction in the foreseeable future. We seek additional information on these and other conservation efforts in our public comment process (see *Public Comments Solicited on Proposed Listing* below).

**Determination**

Section 4(b)(1)(A) of the ESA requires that listing determinations are based solely on the best scientific and commercial information and data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information including the petition, public comments submitted on the 90-day finding (86 FR 73230; December 27, 2021), the status review report (Lowry *et al.* 2022), and other published and unpublished information, and have consulted with species experts and individuals familiar with the sunflower sea star.

As summarized above, and in Lowry *et al.* (2022), we assessed the ESA section 4(a)(1) factors both individually and collectively for the sunflower sea star, throughout its range and in portions of its range, and conclude that the species faces ongoing threats from SSWS and direct (*i.e.,* physiological) and indirect (*i.e.,* ecological) consequences of anthropogenic climate change. Over 90 percent of the abundance of the species was lost over the period from 2013 to 2017, there are few positive signs of recovery, and we do not yet know the etiology of SSWS. Likely linkages of SSWS with environmental parameters that are projected to worsen with ongoing climate change suggest that impacts on the species from SSWS will likely persist and potentially worsen over the foreseeable future throughout the range.

We found no evidence of protective efforts for the conservation of the sunflower sea star that would eliminate or adequately reduce threats to the species to the point where it would not necessitate listing under the ESA. Therefore, we conclude that the sunflower sea star is likely to become an endangered species in the foreseeable future throughout its range from threats of disease and anthropogenic climate change. As such, we have determined that the sunflower sea star meets the definition of a threatened species and propose to list it is as such throughout its range under the ESA.

**Effects of Listing**

Measures provided for species of fish or wildlife listed as endangered or threatened under the ESA include: development of recovery plans (16 U.S.C. 1533(f)); designation of critical habitat, to the maximum extent prudent and determinable (16 U.S.C. 1533(a)(3)(A)); and the requirement for Federal agencies to consult with NMFS under section 7 of the ESA to ensure the actions they fund, conduct, and authorize are not likely to jeopardize the continued existence of the species or result in adverse modification or destruction of any designated critical habitat (16 U.S.C. 1536(a)(2)). Certain prohibitions, including prohibitions against ''taking'' and importing, apply with respect to endangered species under section 9 (16 U.S.C. 1538), and, at the discretion of the Secretary, some or all of these prohibitions may be applied to threatened species under the authority of section 4(d) (16 U.S.C. 1533(d)). Other benefits to species from ESA listing include recognition of the species' status and threats, which can promote voluntary conservation actions by Federal and state agencies, foreign entities, private groups, and individuals.

*Identifying Section 7 Conference and Consultation Requirements*

Section 7(a)(4) of the ESA and implementing regulations require Federal agencies to confer with us on actions likely to jeopardize the continued existence of species proposed for listing, or that result in the destruction or adverse modification of proposed critical habitat. If a proposed species is ultimately listed, Federal agencies must consult under section 7(a)(2) on any action they authorize, fund, or carry out if those actions may affect the listed species or its critical habitat to ensure that such actions are not likely to jeopardize the species or result in destruction or adverse modification of critical habitat should it be designated. At this time, based on the currently available data and information, we determine that examples of Federal actions that may affect the sunflower sea star include, but are not limited to: discharge of pollution from point and non-point sources, contaminated waste disposal, dredging, marine cable laying, pile-driving, development of nearshore infrastructure, development of water quality standards, military activities, and fisheries management practices. None of the actions on this list were scored as moderate or high risk to the sunflower sea stars or identified as a significant cause of their recent population decline. Their effects, even if small, would be subject to section 7 consultations if the sea star sunflower is listed as threatened. For example, Federal fisheries were identified as low risk, and for specific fisheries that employ bottom contact gear and have known or presumed bycatch, we would anticipate evaluating the relatively low risk, then focusing on measures to minimize or better understand effects, such as species identification and reporting by fishery observers and development of safe handling practices.

*Critical Habitat*

Critical habitat is defined in the ESA (16 U.S.C. 1532(5)(A)) as: (1) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary. Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat. When developing critical habitat designations we often seek data and public comment on these aspects such as: (1) maps and specific information describing the amount, distribution, and use type (*e.g.,* spawning) of the habitat, as well as any additional information on occupied and unoccupied habitat areas; (2) the reasons why any specific area of habitat should or should not be determined to be critical habitat as provided by sections 3(5)(A) and 4(b)(2) of the ESA; (3) information regarding the benefits of designating particular areas as critical habitat; (4) current or planned activities in the areas that might qualify for designation and their possible impacts;

(5) any foreseeable economic or other potential impacts resulting from designation, and, in particular, any impacts on small entities; (6) whether specific unoccupied areas may be essential for the conservation of the species; and (7) individuals who could serve as peer reviewers in connection with a proposed critical habitat designation, including persons with biological and economic expertise relevant to the species, region, and designation of critical habitat.

As part of the status review process (Lowry *et al.* 2022) and proposed threatened listing we have conducted an exhaustive review of available information on many of the above elements, particularly related to distribution, habitat use, and biological features. Sunflower sea stars are habitat generalists, occurring on a wide array of abiotic and biotic substrates over a broad depth range. Few systematic surveys have been conducted to differentiate habitat use, such as spawning/rearing, or identify features across different depths, latitudes, substrates, temperatures, or other potentially important biological parameters. At this time, we find that critical habitat for the sunflower sea star is not determinable because data sufficient to perform the required analyses are lacking. Specifically, we do not have sufficient information regarding physical and biological habitat features associated with sunflower sea star occurrence that may be essential to their conservation.

We therefore seek public input on physical and biological habitat features and areas that are essential to the conservation of the sunflower sea star in U.S. waters. If we determine that designation of critical habitat is prudent and determinable in the future, we will publish a proposed designation of critical habitat for the sunflower sea star in a separate rule.

*Protective Regulations Under Section 4(d) of the ESA*

In the case of threatened species, ESA section 4(d) gives the Secretary discretion to determine whether, and to what extent, to extend the prohibitions of section 9 to the species, and authorizes the issuance of regulations necessary and advisable for the conservation of the species. Thus, we have flexibility under section 4(d) to tailor protective regulations, taking into account the effectiveness of available conservation measures. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. We are not proposing such regulations at this time, given the minimal impacts of habitat degradation/destruction, fisheries, trade, and manmade factors (other than climate change described above), but we may consider potential protective regulations pursuant to section 4(d) for the sunflower sea star in a future rulemaking. For example, the impacts of the specific threats that could potentially be addressed through a 4(d) rule, such as pollution, collection/trade, or fisheries, were all identified as low risk. Therefore, at this time we conclude that management under 4(d) would be unlikely to provide meaningful protection. In order to inform our consideration of appropriate protective regulations for the species in the future if our understanding of threats evolves, we are seeking information from the public on threats to the sunflower sea star and possible measures for its conservation.

*Role of Peer Review*

The intent of peer review is to ensure that listings are based on the best scientific and commercial data available. In December 2004, OMB issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to enhance the quality and credibility of the Federal Government's scientific information, and applies to influential or highly influential scientific information disseminated on or after June 16, 2005. To satisfy our requirements under the OMB Bulletin, we are obtaining independent peer review of the status review report concurrent with the public comment period associated with this proposed rule. All comments will be considered and addressed prior to publication of the final rule in which we make the decision whether to list the sunflower sea star.

*Public Comments Solicited on Proposed Listing*

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, we solicit comments and suggestions from the public, other governmental agencies, the scientific community, industry, tribal entities, environmental groups, and any other interested parties. Comments are encouraged on all aspects of this proposal (See **DATES** and **ADDRESSES**). We are particularly interested in: (1) new or updated information regarding the range, distribution, and abundance of the sunflower sea star; (2) new or updated information regarding the genetics and population structure of the sunflower sea star; (3) new or updated information regarding past or current habitat occupancy by the sunflower sea star; (4) new or updated biological or other relevant data concerning any threats to the sunflower sea star (*e.g.,* landings of the species, illegal taking of the species); (5) information on commercial trade or curio collection of the sunflower sea star; (6) recent observations or sampling of the sunflower sea star; (7) current or planned activities within the range of the sunflower sea star and their possible impact on the species; and (8) efforts being made to protect the sunflower sea star.

*Public Comments Solicited on Critical Habitat*

As noted above, we have concluded that critical habitat is not currently determinable for the sunflower sea star. We request information that would contribute to consideration of critical habitat in the future, such as new data describing the quality and extent of habitat for the sunflower sea star, information on what might constitute physical and biological habitat features and areas that are essential to the conservation of the species, whether such features may require special management considerations or protection, or identification of areas outside the occupied geographical area that may be essential to the conservation of the species and that are under U.S. jurisdiction.

In addition, as part of any potential critical habitat designation we may propose, we would also need to consider the economic impact, impact on national security, and any other relevant impact of designating any particular area as critical habitat as required under section 4(b)(2) of the ESA. Therefore, we are also soliciting information to inform these types of analyses, including information regarding: (1) activities or other threats to the essential features of occupied habitat or activities that could be affected by designating a particular area as critical habitat; and (2) the positive and negative economic, national security, and other relevant impacts, including benefits to the recovery of the species, likely to result if particular areas are designated as critical habitat.

**References**

A complete list of the references used in this proposed rule is available at

*https://www.fisheries.noaa.gov/species/sunflower-sea-star* and upon request (see **ADDRESSES**).

## Classification

*National Environmental Policy Act*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 657 F. 2d 829 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA).

*Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act*

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

*Executive Order 13132, Federalism*

Executive Order 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific directives for consultation in situations where a regulation will preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this action.

## List of Subjects in 50 CFR Part 223

Endangered and threatened species.

Dated: March 10, 2023.

**Samuel D. Rauch, III,**

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

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR part 223 as follows:

## PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. Amend § 223.102, in paragraph (e), by adding a new table subheading for ''Echinoderms'' before the ''Molluscs'' subheading, and adding a new entry for ''Sunflower Sea Star'' under the ''Echinoderms'' table subheading to read as follows:

**§ 223.102 Enumeration of threatened marine and anadromous species.**

* * * * *

(e) * * *

| Species [1] | | | Citation(s) for listing determination(s) | Critical habitat | ESA rules |
|---|---|---|---|---|---|
| Common name | Scientific name | Description of listed entity | | | |
| * | * | * | * | * | * |
| **Echinoderms** | | | | | |
| Sunflower Sea Star. | *Pycnopodia helianthoides.* | Entire species ... | *[Insert* **Federal Register** *citation and date when published as a final rule].* | NA ..... | NA. |
| * | * | * | * | * | * |

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2023–05340 Filed 3–15–23; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register

Vol. 88, No. 51

Thursday, March 16, 2023

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

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

**[Docket ID FSA–2022–0014]**

### Notice of Funding Availability (NOFA); Emergency Grain Storage Facility Assistance Program

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notification of funding availability.

**SUMMARY:** The Farm Service Agency (FSA) is announcing the availability of funding to assist grain producers because eligible disaster events damaged or destroyed local commercial grain facilities. To assist producers in the impacted areas, FSA will provide financial assistance under the Emergency Grain Storage Facility Assistance Program (EGSFP). Eligible grain producers in affected counties impacted by eligible disaster events that damaged or destroyed local commercial grain elevators from December 1, 2021, to August 1, 2022, may be eligible for cost-share assistance to construct needed storage facilities to meet on-farm grain storage capacity and handling needs necessary to support the marketing of grain. Grain producers in affected counties in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, North Dakota, South Dakota, Tennessee and any other affected counties as determined and announced by the Deputy Administrator for Farm Programs (DAFP) are eligible to apply.

**DATES:**

*Applications due date:* We will accept applications for assistance through December 29, 2023.

*Comment due date:* We will consider comments on the information collection request discussed in the Paperwork Reduction Act section that we receive by: May 15, 2023.

**ADDRESSES:**

*Comments:* We invite you to submit comments on the information collection request. You may submit comments using any of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and search for Docket ID FSA–2022–0014. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Director, Price Support Division, FSA, USDA, 1400 Independence Avenue SW, Stop 0510, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2022–0014.

All comments received, including those received by mail, will be posted without change and will be publicly available on *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Danielle L. Cooke; telephone: (202) 720–1919; or by email: *danielle.cooke@usda.gov.* Individuals who require alternative means for communication should contact the USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

**SUPPLEMENTARY INFORMATION:**

## Background

The Commodity Credit Corporation (CCC) reallocated $20 million of exercised borrowing authority in fiscal year (FY) 2020 to FSA to provide financial assistance to grain producers through EGSFP to assist with marketing disruptions and limited storage capacity caused by eligible disaster events in affected counties from December 1, 2021, through August 1, 2022. CCC is authorized to provide funding under section 5(b) of the CCC Charter Act to ''make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco).'' EGSFP will provide support to eligible producers or groups of producers in their efforts to build permanent or temporary on-farm grain storage, restore existing storage, and purchase drying and handling equipment, using new or used materials, as defined by FSA. The $20 million funding for the EGSFP assistance will remain available until expended and EGSFP payments will be subject to the availability of funding.

Kentucky grain producers have an immediate need for assistance, due in large part to limited marketing and storage opportunities for over 10 million bushels of grain. The commercial grain facility located in Mayfield, Kentucky, was destroyed in December 2021 by a tornado, and the owners of that facility have not started to rebuild the structure. At this time, the company has not decided if they will rebuild the grain storage facility. There are also damaged elevators in Illinois, Indiana, Iowa, Minnesota, Missouri, North Dakota, South Dakota, and Tennessee that impact the storage capacity for grain producers in the areas surrounding such facilities.

FSA identified the affected counties for EGSFP assistance using a 30-mile radius from local commercial grain elevators that were damaged or destroyed by an eligible disaster event. The 30-mile radius was determined based on an analysis of the distance traveled by grain producers to transport grain to grain elevators in a representative sample of the areas in which grain elevators were damaged or destroyed by eligible disaster events and the grain production in those areas.

Grain producers and other agricultural operations in affected counties are recovering and rebuilding from the devasting tornadoes, flooding, hurricanes, and straight-line winds that swept through the affected counties over the last several crop years. Many producers lost their ability to market and store grain due to damaged and destroyed on-farm grain storage facilities and local commercial grain elevators, which created logistical challenges and disruptions in the orderly marketing of grain. The cost-share assistance for on-farm grain storage and drying and handling equipment will help producers prepare for the upcoming crop harvest. Through the administration of EGSFP, FSA is proactively addressing marketing disruptions and on-farm grain storage capacity needs while mitigating supply chain interruptions. In this document, FSA is providing the eligibility requirements, application process, and payment calculations for EGSFP.

This assistance will cover a percentage of eligible expenses associated with building on-farm grain

storage for a producer's own use or a common facility for shared use among a group of producers or eligible expenses associated with purchasing drying and handling equipment needed for the grain. EGSFP assistance is not conditioned on the loss of a producer's own on-farm grain storage, but rather provides support to producers in affected counties who are experiencing grain marketing disruptions and need additional on-farm grain storage capacity and drying and handling equipment following an eligible disaster event that caused the damage or destruction of the local commercial grain elevators.

Producers may be eligible for EGSFP assistance for on-farm grain storage purchased or built, and drying and handling equipment purchased, after this document is published in the **Federal Register**, as long as those producers apply for EGSFP assistance by the application deadline.

FSA is administering these direct payments under the general supervision and direction of DAFP. DAFP may determine additional counties meet the definition of affected counties for the purposes of EGSFP assistance. Any additional affected counties approved by DAFP will be announced as they are approved and no later than October 27, 2023, on the EGSFP website. FSA will immediately provide outreach to producers in the newly added affected counties and various communication mediums will be used to reach the grain producers.

Similar to other cost-share programs administered by FSA, EGSFP funds will cover 75 or 90 percent of the eligible expenses associated with building on-farm grain storage or purchasing drying and handling equipment including, but not limited to, Ag baggers (including bags) and augers, for a producer's own use or for a shared-cost arrangement among a group of producers using a common facility. EGSFP assistance will be 90 percent for underserved participants and 75 percent for all other participants.[1] To qualify for the higher payment percentage, eligible producers are required to provide a CCC–860, Socially Disadvantaged Limited Resource, Beginning and Veteran Farmer or Rancher Certification form on file in the FSA office.

To determine if a producer or group of producers need additional on-farm grain storage, a calculation similar to the Farm Storage Facility Loan (FSFL) Program storage capacity need calculation will be used for EGSFP, which will require the producer to provide eligible grain production to calculate the producer's share and need for the on-farm grain storage. The FSFL Program provides low-cost financing in the form of loans for producers to build or upgrade new or used on-farm storage and handling facilities.

Any storage structure built or renovated, or drying and handling equipment purchased or built, before the publication of this document is not eligible for EGSFP assistance. Additionally, storage and handling grain trucks are not eligible for EGSFP assistance.

The designs of the on-farm grain storage structures may differ between states and counties, but must have a useful life of at least 3 years. DAFP has discretionary authority to determine if the on-farm grain storage structures are adequate and suitable for the storage and handling of grain.

EGSFP allows producers to renovate existing storage structures for the intended purposes of storing grain. Any storage structure built or renovated or drying and handling equipment purchased using EGSFP funding must not be rented out to other producers. To ensure EGSFP requirements are met, FSA State committees may complete an on-site inspection before issuance of a partial or final payment, in addition to spot checks after payments are made.

## Administration

EGSFP will be administered under the general supervision of the FSA Administrator and DAFP. EGSFP will be carried out by FSA State committees and FSA county committees with instructions issued by DAFP.

FSA State committees, FSA county committees, representatives, and their employees do not have authority to modify or waive any of the provisions of EGSFP, except as discussed below.

The FSA State committee will take any required action not taken by the FSA county committee. The FSA State committee will also:

- Correct or require correction of an action taken by an FSA county committee that is not in compliance with this document; or
- Require an FSA county committee to not take an action or implement a decision that is not in compliance with this document.

DAFP or a designee may determine any question arising under EGSFP or reverse or modify a determination made by an FSA State committee or FSA county committee.

DAFP may authorize FSA State committees and FSA county committees to waive or modify non-statutory deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of EGSFP.

A representative of FSA may execute applications and related documents only under the terms and conditions determined and announced by FSA. Any document not executed under such terms and conditions, including any purported execution before the date authorized by FSA, will be null and void.

## Definitions

The definitions in this section apply for all purposes of EGSFP administration.

*Administrative county office* is the FSA county office where a producer's FSA records are maintained.

*Affected counties* means counties, or their equivalent, in the United States that DAFP has determined to have suffered grain storage and marketing disruptions as a result of being located within a 30-mile radius of a local commercial grain elevator that was damaged or destroyed by an eligible disaster event. A list of affected counties can be found at the EGSFP website. Affected counties have already been identified in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, North Dakota, South Dakota, and Tennessee. DAFP may determine that additional counties meet this definition in these states or other parts of the United States. Any such determination will be made, announced, and posted on the EGSFP website by October 27, 2023.

*Ag baggers* (including bags) means machinery and accessory equipment (not limited to augers, loaders, unloaders) that allow grain to be stored temporarily in a polyethylene plastic sheathing type bag and allows grain to be stored in a dry, controlled environment.

[1] FSA calculates payments based on a higher payment factor for underserved farmers and ranchers (or specific groups included in that term) in several programs, such as ECP, the Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program, and the Tree Assistance Program. FSA has also used higher payment factors for these producers in several recently announced programs: the Food Safety Certification for Specialty Crops Program, the Organic and Transitional Education and Certification Program, the Emergency Livestock Relief Program Phase 1, and the Emergency Relief Program Phase 1. In addition, the Noninsured Crop Disaster Assistance Program provides a reduced service fee and premium for underserved farmers and ranchers. This approach supports the equitable administration of FSA programs, as underserved farmers and ranchers are more likely to lack financial reserves and access to capital that would allow them to cope with storage and marketing disruptions due to unexpected events outside of their control.

*Application period* means the period starting on March 16, 2023 and ending on December 29, 2023, during which time producers may apply for EGSFP benefits.

*Beginning farmer or rancher* means a farmer or rancher who has not operated a farm or ranch for more than 10 years and who materially and substantially participates in the operation. For a legal entity to be considered a beginning farmer or rancher, at least 50 percent of the ownership interest must be held by individuals who are beginning farmers or ranchers.

*Calendar year* means January 1 through December 31.

*Crop year* means the 12-month period following a crop's normal harvest period.

*Eligible disaster event* means derechos (severe thunderstorm and straight-line winds), floods, hurricanes, tornadoes, winter storms, and other eligible disaster events, as determined by DAFP, that occurred from December 1, 2021, through August 1, 2022.

*Eligible grain production* means the actual grain production harvested during crop years 2021 and 2022 in which applicant(s) had an ownership share.

*Existing storage* means grain storage owned by the applicant that has not deteriorated to the point where it is no longer functional for storage purposes. The existing storage must be what is owned by the applicant in the affected county where the on-farm grain storage is or will be located.

*Grain* means barley, canola, corn, flaxseed, mixed grain, oats, rye, sorghum, soybeans, sunflower seed, triticale, and wheat.

*Handling equipment* means equipment including, but not limited to, ag baggers (including bags), augers and dryers, which may be used for control and protection of the grain prior to processing, storage, and movement of the grain.

*Limited resource farmer or rancher* means a farmer or rancher:

(1) Who is a person whose:

(i) Direct or indirect gross farm sales did not exceed $221,200 in each calendar year for 2020 and 2021 (the relevant years for the 2023 program year); and

(ii) Total household income was at or below the national poverty level for a family of four in each of the same 2 previous years referenced in paragraph (1)(i) of this definition; [2] or

(2) That is an entity and all members who hold an ownership interest in the entity meet the criteria in paragraph (1) of this definition.

*On-farm grain storage* means new or used, permanent or temporary on-farm grain storage structures that may include, but are not limited to, conventional-type cribs or bins designed and engineered for grain storage, open buildings with two end walls, converted storage structures, asphalt, concrete or gravel floors with grain piles and tarp covering, and ag baggers (including bags), with a useful life of at least 3 years. On-farm grain storage structures may account for aeration, drainage, and may require loading or unloading augers, drying and handling equipment.

*On-farm grain storage capacity* means the capacity in bushels of on-farm grain storage of a producer or group of producers.

*Producer* means a person, partnership, association, corporation, estate, trust, or other legal entity that produces grain as a landowner, landlord, tenant, or sharecropper.

*Socially disadvantaged farmer or rancher* means a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. For entities, at least 50 percent of the ownership interest must be held by individuals who are members of such a group. Socially disadvantaged groups include the following and no others unless approved in writing by DAFP:

- American Indians or Alaskan Natives;
- Asians or Asian-Americans;
- Blacks or African Americans;
- Hispanics or Hispanic Americans;
- Native Hawaiians or other Pacific Islanders; and
- Women.

*Underserved producers* means beginning, limited resource, socially disadvantaged, and veteran farmers and ranchers.

*United States* means all 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

*Veteran farmer or rancher* means a farmer or rancher:

(1) Who has served in the Armed Forces (as defined in 38 U.S.C. 101(10) [3]) and:

(i) Has not operated a farm or ranch for more than 10 years; or

(ii) Has obtained status as a veteran (as defined in 38 U.S.C. 101(2) [4]) during the most recent 10-year period; or

(2) That is an entity and at least 50 percent of the ownership interest is held by members who meet the criteria in paragraph (1) of this definition.

**Eligibility**

To be eligible for an EGSFP payment, a grain producer, or a group of producers, must have eligible grain production in an affected county and demonstrate a need for additional on-farm grain storage.

To determine a producer's need for additional on-farm grain storage, the existing storage of the producer or group of producers will be deducted from the eligible grain production of the producer or group of producers. If the result is greater than zero, then the producer or group of producers has a need for additional on-farm grain storage and may be eligible for EGSFP assistance. If an application is submitted but the result is less than zero, FSA will notify the producer that they are ineligible for EGSFP assistance and provide appeal rights.

Also, to be eligible for EGSFP assistance each applicant must:

(1) Submit a completed application as specified in the Application Process section below; and

(2) Comply with all provisions of this NOFA and comply with the following regulations:

- 7 CFR part 12—Highly Erodible Land and Wetland Conservation;
- 7 CFR 718.6, Controlled Substance;
- 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been declared Incompetent, if applicable.

The on-farm grain storage built or renovated, or drying and handling equipment purchased, with EGSFP assistance must be used solely by the producer or group of producers for which the EGSFP assistance was requested. The eligible grain production used to calculate the on-farm grain storage capacity need must not have been purchased, bartered, or received as a gift.

The producer must have been producing and marketing grain when the eligible disaster events occurred. The producer must also certify that they are still actively producing grain and will use the on-farm grain storage,

[2] Limited resource farmer or rancher status can be determined using a website available through the Limited Resource Farmer and Rancher Online Self Determination Tool through Natural Resources Conservation Service at *https://lrftool.sc.egov.usda.gov.*

[3] The term ''Armed Forces'' means the United States Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard, including the reserve components.

[4] The term ''veteran'' means a person who served in the active military, naval, air, or space service, and who was discharged or released under conditions other than dishonorable.

drying, and handling equipment purchased or built with EGSFP assistance for at least 3 years after the cost-share payment is made.

Any storage structure built or renovated, or drying and handling equipment purchased before the publication of this document is not eligible for EGSFP assistance. Producers may be eligible for EGSFP assistance for on-farm grain storage purchased or built, and drying and handling equipment purchased, after this document is published in the **Federal Register**, only to the extent that costs associated with that construction or those purchases were incurred after the date of publication. Additionally, storage and handling grain trucks are not eligible for EGSFP assistance. A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust is considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively. The production of the receiver, executor, administrator, guardian, or trustee is the production of the person or estate represented by the receiver, executor, administrator, guardian, or trustee. EGSFP documents executed by any such person will be accepted by FSA only if they are legally valid and such person has the authority to sign the applicable documents.

A minor who is otherwise an eligible producer is eligible to receive an EGSFP payment only if the minor meets one of the following requirements:

- The right of majority has been conferred on the minor by court proceedings or by statute;
- A guardian has been appointed to manage the minor's property and the applicable EGSFP documents are signed by the guardian; or
- Any EGSFP application signed by the minor is cosigned by a person determined by the FSA county committee to be financially responsible.

In addition, consistent with other FSA assistance programs, a producer must be a:

- Citizen of the United States;
- Resident alien, which for purposes of EGSFP means ''lawful alien'' as defined in 7 CFR 1400.3;
- Partnership consisting solely of citizens of the United States or resident aliens;
- Corporation, limited liability company, or other organizational structure organized under State law consisting solely of citizens of the United States or resident aliens;
- Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304); or
- Foreign person or foreign entity who meets all requirements as described in 7 CFR 1400.

**Application Process**

FSA will make available to producers, FSA–413, and FSA–413–1, Continuation Sheet for EGSFP, if applicable, to apply for assistance. Producers will self-certify on FSA–413 and FSA–413–1, if applicable, the eligible grain production, and the estimated cost to build the on-farm grain storage and drying and handling equipment, and the producer's share for the on-farm grain storage. FSA will start the application period on March 16, 2023. To apply for EGSFP assistance, all applicants must submit a completed form FSA–413 and FSA–413–1, if applicable, EGSFP Applications to their administrative FSA county office by December 29, 2023.

Applicants may apply for EGSFP at their local administrative FSA county office.[5] Applicants must submit the following forms, if not already on file in person or by mail, email, facsimile:

- Form FSA–413, EGSFP Application;
- Form FSA–413–1, Continuation Sheet for EGSFP;
- Manual Form CCC–902–I, Farm Operating Plan for an Individual, as applicable;
- Manual Form CCC–902E, Farm Operating Plan for an Entity, as applicable;
- CCC–901, Member Information for Legal Entities (if applicable);
- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- AD–2047, Customer Data Worksheet; and
- CCC–860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, for the applicable program year if the applicant qualifies as an underserved farmer or rancher and this form is not already on file with FSA.[6]

If requested by FSA, the applicant must provide supporting documentation to verify the accuracy of information provided on the application. If any supporting documentation is requested, the documentation must be submitted to FSA within 30 calendar days from the request or the application will be disapproved by FSA. EGSFP are subject to the availability of funding and will be funded in the order in which they are approved. If additional funding is allocated to EGSFP after initial funding is depleted, additional applications will be reviewed, approved and funded, if the eligibility criteria is met, in the order received, subject to the availability of those additional funds.

**Payment Calculations**

The EGSFP payment will be calculated as follows:

The self-certified eligible estimated costs to build or purchase on-farm grain storage and drying and handling equipment to meet the need of the producer or group of producers for additional on-farm grain storage capacity, determined as specified in the Eligibility section above, multiplied by the producer's share of grain crop that will be stored in the built or purchased storage structure. This amount will then be multiplied by the cost share factor of 75 percent or 90 percent.

As provided above, for on-farm grain storage and drying and handling equipment, a cost share factor of 75 percent will be applied to the calculated payment to reduce the participant's payment, unless the participant is a certified underserved producer. If the participant has certified their underserved status on form CCC–860 filed with FSA, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, a factor of 90 percent will be applied.

At the election of the producer, FSA will make a partial and final payment or one final payment to eligible grain producers, or a group of producers based on the information certified on FSA–413 and FSA–413–1, Continuation Sheet for EGSFP, if applicable. The FSA–413–1 must be submitted with the FSA–413 when a group of producers are applying for EGSFP assistance.

[5] USDA Service Center and administrative FSA county office locations and contact information are available at *https://offices.sc.egov.usda.gov/locator/app.*

[6] Form CCC–860 is not required for applicants meeting the definition of socially disadvantaged, limited resource, beginning, and veteran farmer or rancher to receive a payment; however, failure to submit form CCC–860 will result in an applicant's payment being calculated using the lower payment rate that applies to all other applicants. An applicant who has filed CCC–860 certifying their status as a socially disadvantaged, beginning, or veteran farmer or rancher for a prior program year is not required to submit a subsequent certification of their status for a later program year because their status as socially disadvantaged would not change in different years, and their certification as a beginning or veteran farmer or rancher includes the relevant date needed to determine for what programs years the status would apply. Because an applicant's status as a limited resource farmer or rancher may change annually depending on their direct and indirect gross farm sales, those applicants must submit CCC–860 for each applicable program year.

An initial partial payment may be made, at the election of the producer, to facilitate the purchase and construction of the eligible on-farm grain storage and drying and handling equipment. A partial payment will be made after the approved applicant has completed a commensurate share of the construction or purchase of the eligible on-farm grain storage materials and drying and handling equipment and makes the request to the FSA county office. The partial payment will match the percentage of completed construction or purchases up to 50 percent; it may not exceed 50 percent of the total approved EGSFP payment amount.

The final payment will be made after the eligible on-farm grain storage capacity and drying and handling equipment has been fully delivered, erected, constructed, assembled, or installed. An FSA employee may inspect and verify the amount of construction completed before a partial and final payment is disbursed.

FSA will determine if the self-certified estimated cost for the on-farm grain storage and drying and handling equipment is reasonable based on general construction, labor, and supply rates for the respective areas.

**Payment Limitation and Payment Eligibility and Foreign Person**

For the program year 2023, direct or indirect EGSFP payments made to an eligible person or legal entity, other than a joint venture or general partnership, may not exceed $125,000.

The attribution of payment provisions in 7 CFR 1400.105 will be used to attribute payments to persons and legal entities for payment limitation determinations.

EGSFP payments will be made to a foreign person or foreign entity who meets all requirements as described in 7 CFR 1400.

**Provisions Requiring Refund to FSA**

If any EGSFP payment resulted from erroneous information reported by the applicant, FSA will recalculate the payment, and the applicant must refund any excess payment to FSA, including interest to be calculated from the date of the disbursement to the applicant.

If, for whatever reason, FSA determines that the applicant intentionally misrepresented information used to determine the applicant's EGSFP payment amount, the application will be disapproved, and the applicant must refund the full payment to FSA with interest from the date of disbursement. All persons with a financial interest in a legal entity receiving payments are jointly and severally liable for any refund, including related charges, which is determined to be due by FSA for any reason. Any required refunds must be resolved in accordance with debt settlement regulations in 7 CFR part 3.

**Miscellaneous Provisions**

The EGSFP applications, FSA–413 and FSA–413–1, will be reviewed and spot-checked for program eligibility and payment calculation purposes, including certification that the producers built eligible on-farm grain storage for their own use or for the use of a shared-cost arrangement and used the on-farm grain storage and drying and handling equipment for the intended purpose of storing or handling their grain.

Appeal regulations specified in 7 CFR parts 11 and 780 and equitable relief and finality provisions specified in 7 CFR part 718, subpart D, apply to determinations under EGSFP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts in an individual participant's application for payment are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the determination of applicable time periods and the payment calculation formula for EGSFP.

Participants are required to retain documentation in support of their application for 3 years after the date of approval.

Participants receiving EGSFP payments must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the participant's business and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

Applicants have a right to a decision in response to timely submitted applications.

If an applicant files a late EGSFP application, the application will be considered a request to waive the deadline.

Requests to waive or modify EGSFP provisions, including requests to waive the deadline, are at the discretion of DAFP. DAFP has the authority to waive or modify application deadlines and other requirements or EGSFP provisions not specified in law in cases where DAFP determines it is equitable to do so and where the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of EGSFP.

Applicants who request to waive or modify EGSFP provisions do not have a right to a decision on those requests, and DAFP's refusal to exercise discretion on requests to waive or modify EGSFP provisions will not be considered an adverse decision and is, by itself, not appealable.

The regulations governing offsets in 7 CFR part 3 apply to EGSFP payments.

In either applying for or participating in EGSFP, or both, the applicant is subject to laws against perjury (including, but not limited to, 18 U.S.C. 1621). If the applicant willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the applicant knows or believes not to be true, in the course of either applying for or participating in EGSFP, or both, then the applicant may be found to be guilty of perjury. Except as otherwise provided by law, if guilty of perjury the applicant may be fined, imprisoned for not more than 5 years, or both, regardless of whether the applicant makes such verbal or written declaration, certification, statement, or verification within or outside the United States.

**Paperwork Reduction Act Requirements**

In compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), FSA is requesting comments from interested individuals and organizations on the information collection request associated with EGSFP. After the 60-day period ends, the information collection request will be submitted to the Office of Management and Budget (OMB) for a 3-year approval. To start the EGSFP information collection approval, prior to publishing this notice, FSA received emergency approval from OMB for 6 months.

*Title:* Emergency Grain Storage Facility Assistance Program (EGSFP).

*OMB Control Number:* 0560–0XXX.

*Type of Request:* New Collection.

*Abstract* FSA is announcing the availability of funding to assist grain producers because eligible disaster events damaged or destroyed local commercial grain facilities. To assist producers in the impacted areas, FSA will provide financial assistance under the Emergency Grain Storage Facility Assistance Program (EGSFP). Eligible grain producers in affected counties impacted by eligible disaster events that damaged or destroyed local commercial grain elevators from December 1, 2021, to August 1, 2022, may be eligible for cost-share assistance to construct needed storage facilities to meet on-farm grain storage capacity and handling needs necessary to support the

marketing of grain. Grain producers in affected counties in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, North Dakota, South Dakota, Tennessee and any other affected counties as determined and announced by the Deputy Administrator for Farm Programs (DAFP) are eligible to apply.

The producers are required to complete the form FSA–413 and FSA–413–1, Continuation Sheet for EGSFP, if applicable, EGSFP Application to determine eligibility and the need for the on-farm grain storage capacity, estimated costs to build the on-farm grain storage and purchase drying and handling equipment. FSA may request additional supporting documents for verification of information on a completed EGSFP Application.

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

*Estimate of Respondent Burden:* Public reporting burden for this information collection is estimated to average 0.2368 hours per response to include the time for reviewing instructions, searching for information, gathering, and maintaining the data, and completing and reviewing the collection of information.

*Type of Respondents:* Producers or farmers.

*Estimated Annual Number of Respondents:* 750.

*Estimated Number of Responses per Respondent:* 1.92.

*Estimated Total Annual Responses:* 1440.

*Estimated Average Time per Response:* 0.2368 hours.

*Estimated Total Annual Burden on Respondents:* 341 hours.

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

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

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those that are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

**Environmental Review**

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799).

The purpose of EGSFP is to establish assistance to help agricultural producers in affected counties in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, North Dakota, South Dakota, and Tennessee purchase and build on-farm grain storage and purchase drying and handling equipment necessary due to marketing and storage disruptions caused by devastating natural disaster events from December 1, 2021, through August 1, 2022. The limited discretionary aspects of EGSFP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the categorical exclusions in 7 CFR 799.31(b)(6)(iii) that applies to price support programs, provided no extraordinary circumstances are found to exist. As such, the implementation of EGSFP and the participation in EGSFP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

**Federal Assistance Programs**

The title and number of the Federal assistance programs, as found in the Assistance Listing,[7] to which this document applies is 10.973, Emergency Grain Storage Facility Assistance Program.

**USDA Non-Discrimination Policy**

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

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

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

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

**William Marlow,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 2023–05331 Filed 3–10–23; 4:15 pm]

BILLING CODE 3411–E2–P

[7] See *https://sam.gov/content/assistance-listings.*

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Lolo National Forest; Revision of the Land Management Plan for the Lolo National Forest

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of intent to prepare an Assessment and Initiate Land Management Plan Revision for the Lolo National Forest.

**SUMMARY:** The Forest Service, U.S. Department of Agriculture, is initiating the Land Management Plan (Plan) revision process, pursuant to the 2012 Planning Rule and as directed by the National Forest Management Act, for the Lolo National Forest located in western Montana. This process will result in a revised Land Management Plan which will guide all resource management activities on the Lolo National Forest for approximately 15 years. This notice announces the initiation of the assessment phase, the beginning of plan development, and the preliminary stages of the plan revision process. The assessment will identify and consider relevant and readily accessible material about ecological, social, and economic conditions and trends in the planning area, including best available scientific information. Trends and conditions identified in the assessment will then help describe a need to change the existing plan and inform the revision of the Plan.

**DATES:** In the winter and spring of 2023, the public has been invited to engage and participate in the assessment phase of the revision process. Engagement opportunities are posted on the Lolo National Forest Plan Revision website, located at *https://www.fs.usda.gov/goto/lolo/planrevision.* The Lolo National Forest will conduct consultation with Tribes as part of the assessment phase of revision. Information will also be shared through electronic mailing lists, social media, and media outlets. If members of the public are interested in learning more, please visit the website listed above and select the link to subscribe to updates on the Lolo Plan Revision. The public can also sign up by sending an email to *SM.FS.LNFRevision@usda.gov.* The Forest Service will produce a draft assessment for public review and comment, expected around May 2023. The Forest Service will review and incorporate public comments and additional information from tribal consultation on the assessment and produce a final assessment to inform plan revision for the Lolo National Forest. The Forest Service may then initiate procedures pursuant to the National Environmental Policy Act (NEPA) to prepare a revised Land Management Plan.

**ADDRESSES:** For questions about Land Management Plan revision or comments on initiating the assessment phase of plan revision, please address mail to: Lolo National Forest Supervisor's Office, Attn: Amanda Milburn—Lolo Plan Revision, 24 Fort Missoula Rd., Missoula, MT 59804, or via email to *SM.FS.LNFRrevision@usda.gov.* All correspondence, including names and addresses, will be part of the public record. More information on the planning process can also be found on the Lolo Plan Revision website at *https://www.fs.usda.gov/goto/lolo/planrevision.*

**FOR FURTHER INFORMATION CONTACT:** Amanda Milburn, Plan Revision Team Leader, 406–438–6440.

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

**SUPPLEMENTARY INFORMATION:** The National Forest Management Act (NFMA) of 1976 requires that the Forest Service develop a Land and Resource Management Plan, often called a Forest Plan, for every national forest. Forest Plans provide the strategic direction for management of forest resources and are amendable as conditions change over time. The Lolo Forest Plan was adopted in 1986. This notice announces the start of the first stage of the plan revision process, during which updated information from the public, Tribes, other government agencies, and non-governmental parties, will be compiled into an assessment. Information relevant to these reports typically includes the status and trends of ecological, social, and economic conditions within the planning area and across the broader landscape. Federal Regulation 36 CFR 219.6 requires the assessment of (1) Terrestrial ecosystems, aquatic ecosystems, and watersheds; (2) Air, soil, and water resources and quality; (3) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change, and the ability of terrestrial and aquatic ecosytems in the plan area to adapt to change; (4) Baseline assessment of carbon stocks; (5) Threatened, endangered, proposed, and candidate species, and potential species of conservation concern present in the plan area; (6) Social, cultural, and economic conditions; (7) Benefits people obtain from the National Forest System planning area (ecosystem services); (8) Multiple uses and their contributions to local, regional, and national economies; (9) Recreation settings, opportunities and access, and scenic character; (10); Renewable and nonrenewable energy and mineral resources; (11) Infrastructure, such as recreational facilities and transportation and utility corridors; (12) Areas of tribal importance; (13) Cultural and historic resources and uses; (14) Land status and ownership and access patterns; and (15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

During this assessment phase, the Forest Service invites other government agencies, Tribes, non-governmental parties, and the public to share information about social, economic, and environmental conditions of the Lolo National Forest and the broader landscape. Existing information about conditions on the Lolo National Forest, supplemented with information gathered through public engagement and tribal consultation, will be integrated into final resource assessments. The Forest Service will host public outreach forums to share progress and gather additional information.

*Responsible Official:* The responsible official for the revision of the land and resource management plan for the Lolo National Forest is Carolyn Upton, Forest Supervisor, Lolo National Forest Supervisor's Office, 24 Fort Missoula Road, Missoula, MT 59804, phone 406–329–3750.

Dated: March 10, 2023.

**Troy Heithecker,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2023–05352 Filed 3–15–23; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–867]**

### Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2020–2021

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that Hyosung Heavy Industries Corporation (Hyosung) made sales of large power transformers from the Republic of Korea (Korea) at less than normal value during the period of review (POR) August 1, 2020, through July 31, 2021.

**DATES:** Applicable March 16, 2023.

**FOR FURTHER INFORMATION CONTACT:** John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration,

U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195.

**SUPPLEMENTARY INFORMATION:**

## Background

On September 13, 2022, Commerce published the *Preliminary Results* and invited interested parties to comment on the *Preliminary Results*.[1] A summary of the events that occurred since Commerce published these *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum.[2]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

On January 9, 2023, Commerce extended the deadline for these final results of review until March 10, 2023.[3] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

## Scope of the Order

The scope of this order covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheadings 8504.23.0040, 8504.23.0080, and 8504.90.9540. For a complete description of the scope of the order, *see* the accompanying Issues and Decision Memorandum.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of the issues raised by parties, *see* the appendix to this notice.

## Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, we made certain changes to the margin calculations for Hyosung for these final results of review.[4] As a result of these changes, the weighted-average dumping margin also changes for the companies subject to this review, but not selected for individual examination.

## Rates for Non-Selected Respondents

The Act and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we continue to calculate a weighted-average dumping margin for Hyosung that is not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, for these final results, we have assigned the rate calculated for respondent Hyosung to all of the non-selected respondents, as listed below.

## Final Results of Review

We determine that the following estimated weighted-average dumping margins exist for the period August 1, 2020, through July 31, 2021:

| Producer/exporter | Estimated weighted-average dumping margin (percent) |
|---|---|
| Hyosung Heavy Industries Corporation | 4.32 |
| Hyundai Electric & Energy Systems Co., Ltd | 4.32 |
| Iljin Electric Co., Ltd | 4.32 |
| Iljin | 4.32 |
| LSIS Co., Ltd | 4.32 |

## Disclosure

We will disclose the calculations performed to parties in this proceeding within five days after the date of publication in the **Federal Register** of these final results of review, in accordance with 19 CFR 351.224(b).

## Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[5] For Hyosung, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent),[6] Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where an importer-specific assessment rate is zero or *de minimis,* the entries by that importer will be liquidated without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Hyosung for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate in the less-than-fair-value investigation if there is no rate for the intermediate company(ies) involved in

[1] *See Large Power Transformers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 2020–2021,* 87 FR 55993 (September 13, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2020–2021,'' dated January 9, 2023.

[4] *See* Issues and Decision Memorandum at Comment 1; *see also* Memorandum, ''Analysis of Data Submitted by Hyosung Corporation in the Final Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea,'' dated concurrently with this notice.

[5] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

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

the transaction.[7] For the companies that were not selected for individual examination, we will instruct CBP to liquidate entries at the rates established in these final results of review.

Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) the cash deposit rates for the companies subject to this review will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 22.00 percent, the all-others rate established in the less-than-fair-value investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers Regarding the Reimbursement of Duties**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties did occur and the subsequent assessment of doubled antidumping duties.

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: March 10, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues
  Comment 1: Calculation of Indirect Selling Expenses (ISE) Incurred in the United States
  Comment 2: Whether Commerce Should Correct Errors in Reported Expenses for One Sale
  Comment 3: Whether Commerce Should Apply the Transactions Disregarded Rule to Certain Hyosung Purchases of Materials
  Comment 4: Rate for Non-Selected Respondents
VI. Recommendation

[FR Doc. 2023–05386 Filed 3–15–23; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC839]**

### North Pacific Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and its advisory committees will meet April 4, 2023, through April 11, 2023.

**DATES:** The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Aleutian room on Tuesday, April 4, 2023, and continue through Wednesday, April 5, 2023. The Ecosystem Committee will meet Tuesday, April 4, 2023, from 8:30 a.m. to 5 p.m. in the Denali room. The Enforcement Committee will meet Tuesday April 4, 2023, from 1 p.m. to 4 p.m. in the Council's offices. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Denali room on Wednesday, April 5, 2023, and continue through Friday, April 7, 2023. The Council will begin at 8 a.m. in the Aleutian room on Thursday, April 6, 2023, and continue through Tuesday, April 11, 2023. All times listed are Pacific Time.

**ADDRESSES:**

*Meeting address:* The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Hilton Hotel, 500 W 3rd Ave., Anchorage, AK 99501, or join the meeting online through the links at *https://www.npfmc.org/upcoming-council-meetings.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via webconference are given under Connection Information, below

**FOR FURTHER INFORMATION CONTACT:** Diana Evans, Council staff; email: *diana.evans@noaa.gov;* telephone: (907) 271–2809. For technical support, please contact our Council administrative staff, email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Agenda

*Tuesday, April 4, 2023, Through Wednesday, April 5, 2023*

The SSC agenda will include the following issues:

(1) Report on SSC rapid environmental change workshop
(2) Groundfish Plan Team December 2022 workgroup recommendations
(3) Bering Sea Fishery Ecosystem Plan (BS FEP) Climate Change Taskforce (CCTF)—Review workplan, report
(4) Scallops—Stock Assessment and Fishery Evaluation (SAFE) report, Acceptable biological catch (ABC)/Over Fishing Limit (OFL), Plan Team report
(5) Cook Inlet Salmon Fishery Management Plan (FMP) Amendment—Final Action
(6) Groundfish and Crab Economic SAFE reports
(7) BS FEP Local Knowledge, Traditional Knowledge, Subsistence (LKTKS) Taskforce—Review Draft Protocol, Taskforce report
(8) Annual Community Engagement and Participation Overview (ACEPO) report, NSRKC research update

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2986* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

*Tuesday, April 4, 2023*

The Ecosystem Committee agenda will include (a) Groundfish PEIS planning and (b) other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2984* prior to the meeting, along with meeting materials.

*Tuesday, April 4, 2023*

The Enforcement Committee will be reviewing enforcement tools and regulatory prohibitions of a newly managed federal fishery Cook Inlet Salmon. Topics will include gear marking, gear specifications, recording keeping and reporting, monitoring, and requirements for entry or shifting between federal and State fishery. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2985* prior to the meeting, along with meeting materials.

*Wednesday, April 5, 2023, Through Friday, April 7, 2023*

The Advisory Panel agenda will include the following issues:

(1) Report on SSC rapid environmental change workshop
(2) Cook Inlet Salmon FMP Amendment—Final Action, Enforcement Committee report
(3) Salmon bycatch reports—review (a) Chinook/chum genetics reports for BS, Gulf of Alaska (GOA); (b) pollock IPA reports, Sea Share, and (c) Salmon Bycatch Committee recommendations
(4) Scallops—SAFE report, ABC/OFL, Plan Team report
(5) Scallop FMP multi-year specifications amendment
(6) Greenland turbot in longline pots
(7) BS FEP LKTKS Taskforce—Review Draft Protocol, Taskforce report
(8) BS FEP CCTF—Review workplan, report
(9) Staff Tasking

*Thursday, April 6, 2023, Through Tuesday, April 11, 2023*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) B Reports (Executive Director, NMFS Management, NOAA General Counsel (GC), Alaska Fishery Science Center (AFSC), Alaska Department of Fish and Game (ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), National Institute for Occupational Safety & Health (NIOSH) report, US Navy Report, North Pacific Fisheries Commission report, Cooperative reports, Advisory Panel, SSC report)
(2) Cook Inlet Salmon FMP amendment—Final Action, Enforcement Committee report
(3) Salmon bycatch reports—review (a) Chinook/chum genetics reports for BS, GOA; (b) pollock IPA reports, Sea Share, and (c) Salmon Bycatch Committee recommendations
(4) Scallops—SAFE report, ABC/OFL, Plan Team report
(5) Scallop FMP multi-year specifications amendment—Initial/Final action
(6) Greenland turbot in longline pots—Final Action
(7) Report on SSC rapid environmental change workshop—Review
(8) BS FEP LKTKS Taskforce—Review Draft Protocol, Taskforce report
(9) BS FEP Climate Change Taskforce—Review workplan, report
(10) Staff Tasking

**Connection Information**

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://www.npfmc.org/upcoming-council-meetings.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

If you are attending the meeting in-person, please refer to the COVID avoidance protocols on our website, *https://www.npfmc.org/upcoming-council-meetings/.*

**Public Comment**

Public comment letters will be accepted and should be submitted electronically through the links at *https://www.npfmc.org/upcoming-council-meetings.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from March 17, 2023, to March 31, 2023, and closes at 12 p.m. Alaska Time on Friday, March 31, 2023.

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

Dated: March 13, 2023.

**Rey Israel Marquez,**

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

[FR Doc. 2023–05402 Filed 3–15–23; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC844]**

### Pacific Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council (Council) and its advisory bodies will meet April 1–7, 2023 in Foster City, CA and via webinar. The Council meeting will be live streamed with the opportunity to provide public comment remotely. The following groups will meet in person in Foster City: Budget Committee, Legislative Committee, Model Evaluation Workgroup, Salmon Technical Team, Salmon Advisory Subpanel, Coastal Pelagic Species Advisory Subpanel, and the Coastal Pelagic Species Management Team. The Enforcement Consultants, Habitat

Committee, Groundfish Management Team, Groundfish Advisory Subpanel, and the Scientific and Statistical Committee will meet by webinar only.

**DATES:** The Pacific Council meeting will begin on Sunday, April 2, 2023, at 9 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. on Monday, April 3, 2023 through Friday, April 7, 2023. All meetings are open to the public, except for a Closed Session held from 8 a.m. to 9 a.m., Sunday, April 2, 2023 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

**ADDRESSES:**

*Meeting address:* The meetings of the Pacific Council and its advisory entities will be held at the Crowne Plaza Hotel, 1221 Chess Drive, Foster City, CA; telephone: (650) 570–5700. Specific meeting information, including directions on joining the meeting, connecting to the live stream broadcast, 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:** Mr. Merrick Burden, Executive Director, Pacific Council; telephone: (503) 820–2418 or (866) 806–7204 toll-free, or access the Pacific Council website, *www.pcouncil.org,* for the proposed agenda and meeting briefing materials.

**SUPPLEMENTARY INFORMATION:** The April 1–7, 2023 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PDT Sunday, April 2, 2023, and 8 a.m. PDT Monday, April 3, 2023 through Friday, April 7, 2023. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion for the public is listen-only except that an opportunity for oral public comment will be provided prior to Council Action on each agenda item. Additional information and instructions on joining or listening to the meeting can be found on the Pacific Council's website (see *www.pcouncil.org*).

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and advisory entity meeting times, are described in Agenda Item A.3, Proposed Council Meeting Agenda, and will be in the advance April 2023 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Tuesday, March 21, 2023.

*A. Call to Order*
1. Opening Remarks
2. Roll Call
3. Agenda
4. Executive Director's Report

*B. Open Comment Period*
1. Comments on Non-Agenda Items

*C. Habitat Issues*
1. Current Habitat Issues

*D. Pacific Halibut Management*
1. Incidental Catch Limits for the Salmon Troll Fishery—Final Action

*E. Salmon Management*
1. National Marine Fisheries Service Report
2. Tentative Adoption of 2023 Management Measures for Analysis
3. Clarify Council Direction on 2023 Management Measures
4. Methodology Review Preliminary Topic Selection
5. Sacramento and Klamath River Fall Chinook Conservation Objectives Scoping
6. Improvements to Southern Oregon/Northern California Coho Ocean Fishery Exploitation Rate Forecasts
7. Southern Resident Killer Whale Chinook Threshold and Other Fishery Management Plan Clarifications—Scoping
8. Further Direction on 2023 Management Measures
9. Klamath Dam Removal Update
10. 2023 Management Measures—Final Action

*F. Administrative Matters*
1. Regional Implementation of the National Equity and Environmental Justice Strategy
2. Council Meeting and Process Efficiencies
3. North Pacific Fisheries Commission (NPFC) Update
4. Marine Planning
5. Legislative Matters
6. Membership Appointments and Council Operating Procedures
7. Future Council Meeting Agenda and Workload Planning

*G. Groundfish Management*
1. National Marine Fisheries Service Report
2. Trawl Cost Recovery Annual Report
3. Trawl Catch Share Cost Project—Update
4. Inseason Adjustments—Final Action
5. Sablefish Gear Switching—Check-in and Refine the Range of Alternatives
6. Considerations for a Sablefish Assessment Update

*H. Coastal Pelagic Species Management*
1. National Marine Fisheries Service Report
2. Exempted Fishing Permits for 2023–2024—Final Action
3. Fishery Management Plan (FMP) Housekeeping—Final Action
4. Sardine Harvest Specifications and Management Measures for 2023–24—Final Action
5. Coastal Pelagic Species Essential Fish Habitat Amendment

**Advisory Body Agendas**

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website, *www.pcouncil.org,* no later than Tuesday, March 21, 2023.

SCHEDULE OF ANCILLARY MEETINGS

| | |
|---|---|
| *Day 1—Saturday, April 1, 2023:* | |
| Habitat Committee | 8 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Scientific and Statistical Committee | 8 a.m. |
| Enforcement Consultants | 9 a.m. |
| Legislative Committee | 10 a.m. |
| Model Evaluation Workgroup | 10 a.m. |
| Tribal Policy Group Breakout | As Necessary. |

SCHEDULE OF ANCILLARY MEETINGS—Continued

| | |
|---|---|
| Tribal and Washington Technical Group | As Necessary. |
| *Day 2—Sunday, April 2, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Groundfish Advisory Subpanel | 8 a.m. |
| Groundfish Management Team | 8 a.m. |
| Habitat Committee | 8 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Scientific and Statistical Committee | 8 a.m. |
| Enforcement Consultants | As Necessary. |
| Tribal Policy Group Breakout | As Necessary. |
| Tribal and Washington Technical Group | As Necessary. |
| *Day 3—Monday, April 3, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Coastal Pelagic Species Advisory Subpanel | 8 a.m. |
| Coastal Pelagic Species Management Team | 8 a.m. |
| Groundfish Advisory Subpanel | 8 a.m. |
| Groundfish Management Team | 8 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Enforcement Consultants | As Necessary. |
| Tribal Policy Group Breakout | As Necessary. |
| Tribal and Washington Technical Group | As Necessary. |
| *Day 4—Tuesday, April 4, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Coastal Pelagic Species Advisory Subpanel | 8 a.m. |
| Coastal Pelagic Species Management Team | 8 a.m. |
| Groundfish Advisory Subpanel | 8 a.m. |
| Groundfish Management Team | 8 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Enforcement Consultants | As Necessary. |
| Tribal Policy Group Breakout | As Necessary. |
| Tribal and Washington Technical Group | As Necessary. |
| *Day 5—Wednesday, April 5, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Groundfish Advisory Subpanel | 8 a.m. |
| Groundfish Management Team | 8 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Enforcement Consultants | As Necessary. |
| Tribal Policy Group Breakout | As Necessary. |
| Tribal and Washington Technical Group | As Necessary. |
| *Day 6—Thursday, April 6, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Salmon Advisory Subpanel | 8 a.m. |
| Salmon Technical Team | 8 a.m. |
| Enforcement Consultants | As Necessary. |
| Tribal Policy Group Breakout | As Necessary. |
| Tribal and Washington Technical Group | As Necessary. |
| *Day 7—Friday, April 7, 2023:* | |
| California State Delegation | 7 a.m. |
| Oregon State Delegation | 7 a.m. |
| Washington State Delegation | 7 a.m. |
| Salmon Technical Team | 8 a.m. |

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. 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: March 13, 2023.

**Rey Israel Marquez,**

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

[FR Doc. 2023–05401 Filed 3–15–23; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC846]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council, its Executive Committee, and the Mackerel, Squid, and Butterfish Committee.

**DATES:** The meetings will be held Tuesday, April 4, 2023 through Thursday, April 6, 2023. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** This meeting will be an in-person meeting with a virtual option. Council members, other meeting participants, and members of the public will have the option to participate in person at the Hyatt Place Durham/Southpoint (7840 NC–751 Hwy, Durham, NC 27713, 919–688–1800) or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: *https://www.mafmc.org/briefing/april-2023.*

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The following items are on the agenda, although agenda items may be addressed out of order (changes will be noted on the Council's website when possible).

**Tuesday, April 4, 2023**

*Executive Committee Meeting (Closed Session)*

Review and recommend new SSC (membership)
Review Award of Excellence nominations

*Short-Term Forecasts of Species Distributions for Fisheries Management Project*

(Dr. Malin Pinsky, Rutgers University and Dr. Alexa Fredston, University of California Santa Cruz)
Review results and discuss potential application and next steps

*East Coast Climate Change Scenario Planning Update*

Update from February 2023 East Coast Scenario Planning Summit and next steps

**Wednesday, April 5, 2023**

*Mackerel, Squid, and Butterfish Committee, Meeting as a Committee of the Whole Illex: Review 2023 and Set 2024–z 25 Specifications*

Review recommendations from the Advisory Panel, SSC, and staff
Review 2023 specifications and consider modifications if appropriate
Approve 2024–25 specifications

*Illex Permit Action Follow-Up*

Review NOAA Fisheries response to request for additional information regarding disapproval of *Illex* Permit Action
Consider the initiation of a framework to create Vessel Hold Baselines for permits in the *Illex* fishery

*Council Convenes*

*Habitat Activities Update*

(Greater Atlantic Regional Fisheries Office, Habitat and Ecosystem Services Division)
Presentation on activities of interest (aquaculture, wind, and other projects) in the region

*Ocean City Video Boat Count Project*

Review results

*Update From ACCSP on Atlantic Recreational Data Implementation Plan*

(Geoffrey White, Atlantic Coastal Cooperative Statistics Program)
Update on development process and 2023–2027 priorities

*Marine Recreational Information Program (MRIP) Update*

(Katherine Papacostas, NOAA Fisheries, Office of Science and Technology)
Update on 2023 MRIP priorities and proposed actions in response to National Academies Study committee recommendations regarding recreational data

*Scup Federal Recreational Season*

Review recent ASMFC Board recommendation to NOAA Fisheries to reconsider previously adopted seasonal closure
Determine if similar action by the Council is warranted

*2023 Mid-Atlantic State of the Ecosystem Report*

(Dr. Sarah Gaichas, NEFSC)
Review and provide feedback

*NOAA's National Seafood Strategy*

(Michael Rubino, NOAA Fisheries)
Review of NOAA's proposed strategy

**Thursday, April 6, 2023**

*Business Session*

Committee Reports (SSC); Executive Director's Report; Organization Reports; and Liaison Reports

*Other Business and General Public Comment*

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

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: March 13, 2023.

**Rey Israel Marquez,**

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

[FR Doc. 2023–05397 Filed 3–15–23; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC843]**

### New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Recreational Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Monday, April 3, 2023, at 1 p.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8307251681499755097.*

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

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

#### Agenda

The Recreational Advisory Panel will meet to receive an update on progress to revise the Council's ABC control rule for groundfish stocks and the plan for a facilitated process between the Scientific and Statistical Committee, Groundfish Committee, and Groundfish Plan Development Team. They will also receive an update on developing a transition plan for Atlantic cod management from the current two management units to up to five management units, including addressing allocation issues and considering potential new measures to protect Atlantic cod spawning. Other business may be discussed as necessary.

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

#### Special Accommodations

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

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

Dated: March 13, 2023.

**Rey Israel Marquez,**

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

[FR Doc. 2023–05395 Filed 3–15–23; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

### National Spectrum Strategy (NSS) Listening Session

**AGENCY:** National Telecommunications and Information Administration, Department of Commerce.

**ACTION:** Notice of open meetings.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) will hold two public listening sessions to assist in its preparation of a National Spectrum Strategy (NSS) for the United States. NTIA is seeking input from the public as it develops a Strategy that identifies the actions needed to maximize the potential of our nation's spectrum resources. Access to spectrum contributes to technological innovation and economic growth and is critical to national security, public safety, and other national priorities. The agendas and other information regarding the events will be posted at [*https://ntia.gov*].

**DATES:** The listening sessions will be held on: Thursday, March 30, 2023, from 1:00 p.m. to 4:00 p.m., Eastern Daylight Time; and Tuesday, April 11, 2023, from 1:00 p.m. to 3:30 p.m., Eastern Daylight Time.

**ADDRESSES:** The NTIA National Spectrum Strategy Public Listening Session will be held on March 30th in the Yates Auditorium, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240.

The NTIA National Spectrum Strategy Public Listening Session, hosted by SpectrumX—An NSF Center for Spectrum Innovation, will be held on April 11th in the Patricia George Decio Theatre at the DeBartolo Performing Arts Center, University of Notre Dame, 100 Performing Arts Center, Notre Dame, IN 46556.

Both sessions also will be webcast live via NTIA's public website, at [*https://ntia.gov*].

**FOR FURTHER INFORMATION CONTACT:** Please direct questions regarding this Notice to [*nsslisteningsession@ntia.gov*], indicating ''National Spectrum Strategy Listening Session'' in the subject line, or if by mail, address inquiries to National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. By telephone, contact John Alden at 202–482–8046. Please direct media inquiries to Charles Meisch, (202) 482–7002, or NTIA's Office of Public Affairs, *press@ntia.gov.*

**SUPPLEMENTARY INFORMATION:** Directions for providing inputs during the listening session: Those wishing to speak during the listening session should send an email (with ''Request to Speak'' in the subject line) to *nsslisteningsession@ntia.gov* to request inclusion on the speaker's list. Please provide (1) your name; (2) your affiliation (company or other organization) if any; (3) contact information, including city and state, an email address and telephone number; (4) the specific date and location of the listening session at which you would like to speak; and (5) the topic(s) you plan to address in your presentation.

Emails requesting inclusion on the speaker's list should be sent no later than five business days prior to the date of the listening session. These names will be considered for inclusion in the final program. Speakers will be allowed approximately five minutes to make their oral presentations during the session. Due to time limitations, there is no guarantee that all of those submitting requests to speak will be able to do so. If necessary, NTIA will select speakers so that a variety of stakeholders, viewpoints, and topics will be represented. Unfortunately, slides and other visual presentations cannot be accommodated. NTIA will inform those

who have been selected to speak prior to each session, and NTIA may publish on its website a list of speakers in advance of each session.

Attendees or speakers needing accommodations should notify NTIA by sending an email to *nsslisteningsession@ntia.gov,* with ''Listening Session Accommodations'' in the subject line. Requests for accommodations should be sent no later than 10 days prior to the date of the listening session for which they will be needed.

*Background:* Access to radio-frequency spectrum is required for all wireless services. Sufficient access to spectrum is critical to the U.S. economy, as well as to many functions of civil society and federal, state and local government operations. Wireless phone and internet networks, Wi-Fi and trunked radio systems, intelligent transportation systems, satellite communications and remote sensing all rely on transmission and receipt of signals using RF spectrum, as do satellite radiolocation systems and government radars used for aeronautical, maritime, and terrestrial operations such as weather forecasting, aircraft safety and national defense.

NTIA oversees the Federal Government's use of spectrum and serves as the chief advisor to the President on issues of telecommunications policy, which includes the management of spectrum. NTIA works closely with the Federal Communications Commission (FCC), which regulates and manages spectrum use by non-Federal entities, including commercial service providers, state and local governments and private-sector users such as utility companies, manufacturers and academic and scientific institutions.

The Secretary of Commerce, working through NTIA and in collaboration with the FCC, is developing a National Spectrum Strategy (NSS) and implementation plan. The NSS will outline an approach to maintain U.S. leadership in advanced wireless technologies and services and to ensure the availability of spectrum resources to meet national requirements. As part of this effort, NTIA is seeking views and inputs from interested parties and stakeholders in several ways. These listening sessions will allow members of the public to provide oral presentations to those charged with developing the spectrum strategy and to listen to the views and perspectives of other speakers. The listening sessions will be recorded and made available on NTIA's website, at [*https://ntia.gov* ].

Topics that speakers may consider addressing in their oral presentations include, but are not limited to:

The development of a spectrum ''pipeline'' of bands to study for repurposing, to ensure that there will be sufficient spectrum for existing and future federal and non-federal services and missions.

The spectrum requirements for next-generation networks and technologies.

Technologies or processes that are currently available but perhaps not sufficiently used to facilitate spectrum sharing.

Additional research and development needed for new spectrum sharing models or regimes.

Processes needed to develop and implement a long-term strategic spectrum planning process.

Improved methods of engagement between federal and non-federal stakeholders regarding spectrum allocation and authorization, repurposing, sharing, and coordination

Innovations and next-generation capabilities for spectrum management models (including both licensed and unlicensed) to expand and improve spectrum access.

Policies that would help identify and enable development of new and innovative uses of spectrum.

Separately, NTIA is releasing a Request for Comments (RFC) that will allow interested parties to file written comments on these and related subjects. Parties can file comments at *regulations.gov*, utilizing the docket number NTIA–2023–0003. The RFC, including directions for filing written comments, can be found on NTIA's website at [*https://www.ntia.gov*]. Parties do not have to file written comments in response to the RFC in order to sign up to speak during a listening session or vice versa. Parties are encouraged, however, to review the RFC, including the comprehensive list of questions presented in that document, to inform their presentations during the listening sessions.

**Stephanie Weiner,**

*Acting Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2023–05407 Filed 3–15–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

**[Docket Number: 230308–0068]**

### Development of a National Spectrum Strategy

**AGENCY:** National Telecommunications and Information Administration, Department of Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, seeks public comment on the development and implementation of a National Spectrum Strategy for the United States. Through this Request for Comments, NTIA seeks broad input from interested stakeholders, including private industry (specifically including developers and end-users of spectrum-based technologies and services, and contractors for federal missions), academia, civil society, the public sector, and others on three proposed pillars of the National Spectrum Strategy set forth below.

**DATES:** Parties should file their comments no later than April 17, 2023.

**ADDRESSES:** All electronic comments on this action, identified by *Regulations.gov* docket number NTIA–2023–0003, may be submitted through the Federal e-Rulemaking Portal at *https://www.regulations.gov.* The docket established for this proceeding can be found at *www.Regulations.gov,* NTIA–2023–0003. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Responders should include a page number on each page of their submissions. Please do not include in your comments information of a confidential nature, such as sensitive personal information. All comments received are part of the public record and generally will be posted to *Regulations.gov* and the NTIA website without change. All personally identifiable information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. For more detailed directions regarding the content of comment submissions, please see the ''Request for Comments'' section below.

Those encountering any difficulties with the prescribed formatting and uploading directions should notify Mr. Alden at the contact information listed below at least ten (10) business days before the filing deadline.

NTIA welcomes views on the NSS pillars as detailed in this notice, and these views may be reflected, at the agency's discretion, in the ensuing development of the NSS and implementation plan.

These public comments are being gathered in conjunction with a series of public listening sessions, which will be held concurrently with the comment period of this RFC. Schedules and instructions for attending and speaking at the public listening sessions will be available on NTIA's website at *https://www.ntia.gov.*

**FOR FURTHER INFORMATION CONTACT:** Please direct questions regarding this Notice to John Alden, Telecommunications Specialist, Office of Spectrum Management, NTIA, at (202) 482–8046 or *spectrum-strategy-comments@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, at (202) 482–7002 or *press@ntia.gov.*

**SUPPLEMENTARY INFORMATION:** NTIA serves as the President's principal advisor on telecommunications policies and manages the use of the radio-frequency spectrum by federal agencies. See 47 U.S.C. 902(b)(2). NTIA is seeking public input on the scope and content of a National Spectrum Strategy. These inputs will allow NTIA and other federal agencies to benefit from expertise and viewpoints outside the federal government. These views will be considered and may be reflected in the development of a National Spectrum Strategy document and ensuing implementation plan, which are needed to accelerate U.S. leadership in wireless communications and other spectrum-based technologies and to unlock innovations that benefit the American people.

## Background

America is increasingly dependent on secure and reliable access to radio frequency spectrum. Sufficient access to spectrum is vital to national security, critical infrastructure, transportation, emergency response, public safety, scientific discovery, economic growth, competitive next-generation communications, and diversity, equity, and inclusion. Increased spectrum access will also advance U.S. innovation, connectivity, and competition, create high-paying and highly skilled jobs, and produce improvements to the overall quality of life. Access to more spectrum, in short, will help the United States continue to lead the world in advanced technology and enhance our national and economic security.

Spectrum access, however, must be managed responsibly and efficiently. NTIA jointly manages the nation's spectrum resources with the Federal Communications Commission. NTIA is requesting comments from interested parties to help inform the development of a national spectrum strategy, which is needed for the U.S. to plan effectively for its current and future spectrum needs. As part of this effort, and to support the need for greater spectrum access, NTIA—in collaboration with the Federal Communications Commission and in coordination with its other federal partners—endeavors to identify at least 1,500 megahertz of spectrum for in-depth study to determine whether that spectrum can be repurposed to allow more intensive use. The Department of Commerce is committed to developing a national spectrum strategy based upon collaboration with both federal and non-federal stakeholders, including Tribes, and on data-driven decision-making, to fully address the needs of spectrum reliant services and missions, including but not limited to:

- Fixed and mobile wireless broadband services;
- Next-generation satellite communications and other space-based systems;
- Advanced transportation technologies;
- Industrial and commercial applications, (*i.e.,* manufacturing, agriculture, and utilities);
- Wireless medical devices and telemedicine;
- Internet of Things (IoT) and smart cities;
- National defense and homeland security;
- Safeguarding the national airspace and ports;
- Securing the Nation's critical infrastructure;
- Earth and space exploration and research; and
- Climate monitoring and forecasting, and other scientific endeavors.

## Request for Comments

The National Telecommunications and Information Administration (NTIA) seeks broad input from interested stakeholders, including private industry (specifically including wireless broadband internet service providers, original equipment manufacturers and network vendors, developers and end-users of spectrum-based technologies and services, and contractors for federal missions), academia, civil society, the public sector, and others on three proposed pillars of the National Spectrum Strategy. NTIA will also confer with federal agencies with an interest in spectrum access.

Please provide any data you have available and are able to make public to support comments in response to the questions below.

### Pillar #1—A Spectrum Pipeline To Ensure U.S. Leadership in Spectrum-Based Technologies

A spectrum pipeline is essential to continue our nation's economic growth, to improve our global competitiveness, and to support critical federal services and missions. For purposes of the Strategy, we define ''spectrum pipeline'' to mean a process for identifying spectrum bands, regardless of allocation (*i.e.,* both federal and non-federal) that should be studied for repurposing (*i.e.,* allowing new or additional uses) to meet future requirements for non-federal and federal use alike. We seek input on what requirements such a pipeline needs to address, and which spectrum bands may be best suited for particular purposes.

1. What are projected future spectrum requirements of the services or missions of concern to you in the short (less than 3 years), medium (3–6 years) and long (7–10 years) term? What are the spectrum requirements for next-generation networks and emerging technologies and standards under development (*e.g.,* 5G Advanced, 6G, Wi-Fi 8)? Are there additional or different requirements you can identify as needed to support future government capabilities? What are the use cases and anticipated high-level technical specifications (*e.g.,* power, target data rates) that drive these requirements? How much, if at all, should our strategy by informed by work being performed within recognized standards-setting bodies (*e.g.,* 3GPP, IEEE), international agencies (*e.g.,* ITU), and non-U.S. regulators or policymakers (*e.g.,* the European Union)? What relationship (if any) should our strategy have to the work of these entities? Are there spectrum bands supporting legacy technology (*e.g.,* 3G, GSM, CDMA, etc.) that can be repurposed to support newer technologies for federal or non-federal use?

2. Describe why the amount of spectrum now available will be insufficient to deliver current or future services or capabilities of concern to stakeholders. We are particularly interested in any information on the utilization of existing spectrum resources (including in historically underserved or disconnected communities such as rural areas and Tribal lands) or technical specifications for minimum bandwidths for future

services or capabilities. As discussed in greater detail in Pillar #3, are there options available for increasing spectrum access in addition to or instead of repurposing spectrum (*i.e.,* improving the technological capabilities of deployed systems, increasing or improving infrastructure build outs)?

3. What spectrum bands should be studied for potential repurposing for the services or missions of interest or concern to you over the short, medium, and long term? Why should opening or expanding access to those bands be a national priority. For each band identified, what are some anticipated concerns? Are there spectrum access models (*e.g.,* low-power unlicensed, dynamic sharing) that would either expedite the timeline or streamline the process for repurposing the band?

4. What factors should be considered in identifying spectrum for the pipeline? Should the Strategy promote diverse spectrum access opportunities including widespread, intensive, and low-cost access to spectrum-based services for consumers? Should the Strategy promote next-generation products and services in historically underserved or disconnected communities such as rural areas and Tribal lands? Should the Strategy prioritize for repurposing spectrum bands that are internationally harmonized and that can lead to economies of scale in network equipment and devices? How should the Strategy balance these goals with factors such as potential transition costs for a given band or the availability of alternative spectrum resources for incumbent users? How should the Strategy balance these goals against critical government missions? How should the Strategy assess efficient spectrum use and the potential for sharing? What is an ideal timeline framework suitable for identifying and repurposing spectrum in order to be responsive to rapid changes in technology, from introduction of a pipeline to actual deployment of systems?

5. Spectrum access underpins cutting-edge technology that serves important national purposes and government missions. Are there changes the government should make to its current spectrum management processes to better promote important national goals in the short, medium, and long term without jeopardizing current government missions?

6. For purposes of the Strategy, we propose to define ''spectrum sharing'' as optimized utilization of a band of spectrum by two or more users that includes shared use in frequency, time, and/or location domains, which can be static or dynamic. To implement the most effective sharing arrangement, in some situations incumbent users may need to vacate, compress or repack some portion of their systems or current use to enable optimum utilization while ensuring no harmful interference is caused among the spectrum users. Is this how spectrum sharing would be defined? If not, please provide a definition or principles that define spectrum sharing. What technologies, innovations or processes are currently available to facilitate spectrum sharing as it should be defined? What additional research and development may be required to advance potential new spectrum sharing models or regimes, who should conduct such research and development, and how should it be funded?

7. What are the use cases, benefits, and hinderances of each of the following spectrum access approaches: exclusive-use licensing; predefined sharing (static or predefined sharing of locations, frequency, time); and dynamic sharing (real-time or near real-time access, often with secondary use rights)? Are these approaches mutually exclusive (*i.e.,* under what circumstances could a non-federal, exclusive-use licensee in a band share with government users, from a non-federal user point of view)? Have previous efforts to facilitate sharing, whether statically or dynamically, proven successful in promoting more intensive spectrum use while protecting incumbents? Please provide ideas or techniques for how to identify the potential for and protect against interference that incumbents in adjacent bands may experience when repurposing spectrum.

8. What incentives or policies may encourage or facilitate the pursuit of more robust federal and non-federal spectrum sharing arrangements, including in mid-band and other high priority/demand spectrum? For example, does the current process for reimbursement of relocation or sharing costs adequately incentivize the study or analysis of spectrum frequencies for potential repurposing? Are there market-based, system-performance based or other approaches that would make it easier for federal agencies to share or make spectrum available while maintaining federal missions? At the same time, what mechanisms should be considered to meet some of the current and future federal mission requirements by enabling new spectrum access opportunities in non-federal bands, including on an ''as needed'' or opportunistic basis?

9. How do allocations and varying spectrum access and governance models in the U.S. compare with actions in other nations, especially those vying to lead in terrestrial and space-based communications and technologies? How should the U.S. think about international harmonization and allocation disparities in developing the National Spectrum Strategy?

**Pillar #2—Long-Term Spectrum Planning**

The key to addressing spectrum needs across sectors is a long-term planning process in which affected stakeholders work together openly and transparently in an ongoing manner. This is how evolving user requirements can be vetted and allocations can be regularly assessed to optimize uses of spectrum to ensure its greatest benefits to the American people. Under the Spectrum Coordination Initiative, NTIA and the FCC are collaborating to develop and implement a long-term strategic spectrum planning process.[1] This process, once adopted, would provide a plan for future spectrum access and compatibility across uses based on projected future national spectrum requirements. We seek input on what a long-term planning process should entail, with whom and at what cadence should NTIA coordinate as part of such process, and how best to execute it.

1. Who are the groups or categories of affected stakeholders with interests in the development of the National Spectrum Strategy and participating in a long-term spectrum-planning process? How do we best ensure that all stakeholders can participate in a long-term spectrum planning process in order to facilitate transparency to the greatest extent possible, ensure efficient and effective use of the nation's spectrum resources?

2. What type of timeline would be defined as a ''long-term'' process? What are key factors to consider and what are the key inputs to a long-term planning process? What data are required for planning purposes? Do we need data on spectrum utilization by incumbent users, including adjacent band users, and, if so, how should we collect such data and what metrics should we use in assessing utilization? Do we need information from standards-setting bodies and, if so, what information would be helpful and how should we obtain such information? What is the appropriate time horizon for long-term

[1] *See* News Release, National Telecommunications and Information Administration, FCC, NTIA Establish Spectrum Coordination Initiative (Feb. 15, 2022).

spectrum planning and how often should we revisit or reassess our prior findings and determinations? How do we balance periodic review and reassessment of our spectrum priorities with providing regulatory certainty to protect investment-backed expectations of existing spectrum users? How can federal and non-federal stakeholders best work together?

3. How can federal and non-federal stakeholders best engage in productive and ongoing dialogue regarding spectrum allocation and authorization, repurposing, sharing, and coordination? Learning from prior experiences, what can be done to improve federal/non-federal spectrum coordination, compatibility, and interference protection assessments to avoid unnecessary delays resulting from non-consensus?

4. What technical and policy-focused activities can the U.S. Government implement that will foster trust among spectrum stakeholders and help drive consensus among all parties regarding spectrum allocation decisions?

5. Are additional spectrum-focused engagements beyond those already established today (*e.g.,* FCC's Technical Advisory Committee (TAC),[2] NTIA's Commerce Spectrum Management Advisory Committee (CSMAC),[3] and NTIA's annual Spectrum Policy Symposium) needed to improve trust, transparency, and communication among the federal government, industry, and other stakeholders (including Tribal Nations) and why? What would be the scope of such engagements, how would they be structured, and why would establishing new engagements be preferable to expanding the use of existing models? If existing models are sufficient, how (if needed) should FCC and NTIA maximize their usefulness or leverage their contributions to enhance and improve coordination?

6. In considering spectrum authorization broadly (*i.e.,* to include both licensed and unlicensed models as well as federal frequency assignments), what approaches (*e.g.,* rationalization of spectrum bands or so-called ''neighborhoods'') may optimize the effectiveness of U.S. spectrum allocations? Are there any specific spectrum bands or ranges to be looked at that have high potential for expanding and optimizing access? Which, if any, of these spectrum bands or ranges should be prioritized for study and potential repurposing? Conversely, are there any bands or ranges that would not be appropriate for access expansion? What, if any, metrics are ideal for measuring the intensity of spectrum utilization by incumbents in candidate bands?

7. What is needed to develop, strengthen, and diversify the spectrum workforce to ensure an enduring, capable and inclusive workforce to carry out the long-term plans (including specifically in rural and Tribal communities)?

**Pillar #3—Unprecedented Spectrum Access and Management Through Technology Development**

A key strategy to ensure sufficient access to spectrum for our nation is to embrace innovation and pursue technologies that expand the overall capacity or usability of the radiofrequency spectrum. Our nation has always been at the forefront of technological advancements across multiple industries and fields, so it should be no different with spectrum-based technologies. We seek input on what categories of new or emerging technologies could best help to ensure the U.S. continues to innovate and maintain its global leadership in spectrum-based services.

1. What innovations and next-generation capabilities for spectrum management models (including both licensed and unlicensed) are being explored today and are expected in the future to expand and improve spectrum access (and what are the anticipated timelines for delivery)?

2. What policies should the National Spectrum Strategy identify to enable development of new and innovative uses of spectrum?

3. What role, if any, should the government play in promoting research into, investment in, and development of technological advancements in spectrum management, spectrum-dependent technologies, and infrastructure? What role, if any, should the government play in participating in standards development, supporting the use of network architectures, and promoting tools such as artificial intelligence and machine learning for spectrum coordination or interference protections? What technologies are available to ensure appropriate interference protection for incumbents in adjacent bands? What spectrum management capabilities/tools would enable advanced modeling and more robust and quicker implementation of spectrum sharing that satisfies the needs of non-federal interests while maintaining the spectrum access necessary to satisfy current and future mission requirements and operations of federal entities? How can data-collection capabilities or other resources, such as testbeds, be leveraged (including those on Tribal lands and with Tribal governments)?

4. NTIA is pursuing a time-based spectrum sharing solution called the incumbent informing capability (IIC) to support spectrum sharing between federal and non-federal users.[4] What are some recommendations for developing an enduring, scalable mechanism for managing shared spectrum access using the IIC or other similar mechanism, with the goal of increasing the efficiency of spectrum use? What challenges do non-federal users foresee with potentially having limited access to classified or other sensitive data on federal spectrum uses and operations as part of the IIC or similar capabilities, and what recommendations do users have for ways to mitigate these challenges? What are the costs and complexities associated with automating information on spectrum use?

5. What other technologies and methodologies are currently being, or should be, researched and pursued that innovate in real-time dynamic spectrum sharing, particularly technologies that may not rely on databases?

**Implementation Plan**

NTIA also seeks comment on the development of an implementation plan for the National Spectrum Strategy, which NTIA plans to release subsequent to publication of the National Spectrum Strategy. Considering all the foregoing, what specific steps should be included in the Implementation Plan that could be taken in the next 12–24 months to ensure the successful execution of the National Spectrum Strategy? Which of the spectrum bands or ranges should be prioritized for in-depth study, for example, and under what timetable should we work toward to repurpose any identified bands? The Implementation Plan will outline specific objectives and the tasks needed to achieve them.

**Stephanie Weiner,**

*Acting Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2023–05406 Filed 3–15–23; 8:45 am]

BILLING CODE 3510–60–P

[2] *See* FCC | Technological Advisory Council (TAC), *https://www.fcc.gov/general/technological-advisory-council* (last visited Mar. 4, 2023).

[3] *See* NTIA | Commerce Spectrum Management Advisory Committee (CSMAC), *https://www.ntia.gov/category/csmac* (last visited Mar. 4, 2023).

[4] Michael DiFrancisco et al., Incumbent Informing Capability (IIC) for Time-Based Spectrum Sharing (2021), *https://www.ntia.gov/sites/default/files/publications/iic_for_time-based_spectrum_sharing_0.pdf* (last visited Mar. 4, 2023).

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Wednesday, March 15, 2023; 11:30 a.m.

**PLACE:** The meeting will be held virtually and in person at Bethesda, MD.

**STATUS:** Commission Meeting—Closed to the Public.

**MATTERS TO BE CONSIDERED:** Briefing Matter.

**CONTACT PERSON FOR MORE INFORMATION:** Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: March 13, 2023.

**Alberta E. Mills,**

*Commission Secretary.*

[FR Doc. 2023–05451 Filed 3–14–23; 11:15 am]

**BILLING CODE 6355–01–P**

## DEPARTMENT OF EDUCATION

### National Assessment Governing Board

### Solicitation of Public Comments for Updating the Science Assessment Framework for the 2028 National Assessment of Educational Progress

**AGENCY:** National Assessment Governing Board, U.S. Department of Education.

**ACTION:** Notice of opportunity for public comment on working draft of the Science Assessment Framework for the 2028 National Assessment of Educational Progress (NAEP).

**SUMMARY:** The National Assessment Governing Board (Governing Board) is soliciting public comment for input on proposed recommendations for updating the Assessment Framework for the 2028 National Assessment of Educational Progress (NAEP) in Science.

**SUPPLEMENTARY INFORMATION:** The Governing Board is authorized to formulate policy guidelines for NAEP. Section 302(e)(1)(c) of Public Law 107–279 specifies that the Governing Board determines the content to be assessed for each NAEP Assessment. Each NAEP subject area assessment is guided by a framework that defines the scope of the domain to be measured by delineating the knowledge and skills to be tested at each grade and subject, the format of the assessment, and the achievement level descriptions—guiding assessments that are valid, reliable, and reflective of widely accepted professional standards. The NAEP Science Assessment Framework was last revised in 2005 for use in 2009. In accordance with the Board policy on Assessment Framework Development for NAEP, panels of science experts representing many different stakeholder groups have provided recommendations for updating the NAEP Science Assessment Framework. Public feedback is being sought on a working draft of the 2028 NAEP Science Assessment Framework that was produced by the Science Framework Development Panel. Comments received in response to this notice will be utilized to inform Governing Board decisions on the NAEP Science Assessment Framework. Governing Board action on a revised science framework that incorporates feedback received during public comment is anticipated at the November 2023 Board meeting.

This notice sets forth the review schedule and provides information for accessing additional materials that will be informative and necessary for this review.

By engaging NAEP's audiences, partners, and stakeholders in the panels that provide recommendations for NAEP frameworks and by seeking public comment, NAEP frameworks reflect content valued by the public as important to measure. Additional information on the Governing Board's work in developing NAEP assessment frameworks and Specifications can be found at *https://www.nagb.gov/naep-frameworks/frameworks-overview.html.*

All responses will be taken into consideration before finalizing the recommendations for updating the NAEP Science Assessment Framework. Once finalized, the updated NAEP Science Assessment Framework will be used to guide what is tested on the NAEP Science Assessment in 2028 and beyond.

Feedback shall be submitted via the project website (*www.naepframeworkupdate.org*) no later than 11:59 p.m. Eastern Time on Monday, April 17. It is anticipated that public comments will be shared and discussed publicly in upcoming Governing Board meetings and materials. *When providing comment, please indicate if you are not comfortable with your name and affiliation being included with the comments that may be shared publicly by the Governing Board in its deliberations.*

Additional information (including the materials referenced below) can be found on the project website at *www.naepframeworkupdate.org.*

**Existing Science Framework for the NAEP**

The existing framework (adopted in 2005) can be downloaded from the Governing Board website at: *https://www.nagb.gov/naep-subject-areas/science.html.*

**Governing Board's Periodic Review and Updating of NAEP Frameworks**

Governing Board policy articulates the Board's commitment to a comprehensive, inclusive, and deliberative process to determine and update the content and format of all NAEP assessments. For each NAEP assessment, this process results in a NAEP framework, outlining what is to be measured and how it will be measured. Periodically, the Governing Board reviews existing NAEP frameworks to determine if changes are warranted. Each NAEP framework development and update process considers a wide set of factors, including but not limited to reviews of recent research on teaching and learning, changes in state and local standards and assessments, and the latest perspectives on the nation's future needs and desirable levels of achievement.

In 2021, the Board initiated a preliminary review of the NAEP Science Framework, which included an initial public comment on whether and how the framework should be updated as well as expert commentary to determine the type of updates needed. In May 2022, the Governing Board formally decided to initiate an update to the NAEP Science Framework and issued a Board Charge providing guidance to the panels of experts who were tasked with developing the framework recommendations.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the Adobe website. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit

your search to documents published by the Department.

*Authority:* Public Law 107–279, Title III—National Assessment of Educational Progress § 301.

**Lesley Muldoon,**

*Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.*

[FR Doc. 2023–05338 Filed 3–15–23; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2022–SCC–0154]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; William D. Ford Federal Direct Loan Program Repayment Plan Selection Form

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

**DATES:** Interested persons are invited to submit comments on or before April 17, 2023.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* William D. Ford Federal Direct Loan Program Repayment Plan Selection Form.

*OMB Control Number:* 1845–0014.

*Type of Review:* An extension without change of a currently approved ICR.

*Respondents/Affected Public:* Individuals and Households.

*Total Estimated Number of Annual Responses:* 660,000.

*Total Estimated Number of Annual Burden Hours:* 110,220.

*Abstract:* This is a request for an extension without change to the current respondent/response/burden hour assessment in OMB Control Number 1845–0014—Repayment Plan Request: Standard Repayment Plan/Extended Repayment Plan/Graduated Repayment Plan—William D. Ford Federal Direct Loan (Direct Loan) Program. The Department files this request with the same total annual number of respondents for this renewal collection used in the prior filing. Due to the effects of the COVID–19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for more accurate updates to the usage of these forms.

Dated: March 13, 2023.

**Kun Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2023–05375 Filed 3–15–23; 8:45 am]

BILLING CODE 4000–01–P

## ELECTION ASSISTANCE COMMISSION

### Notice; Request for Public Comment

**AGENCY:** U.S. Election Assistance Commission.

**ACTION:** Notice; correction.

**SUMMARY:** The U.S. Election Assistance Commission published a document in the **Federal Register** on March 9, 2023 regarding public comments on its annual review of the Voluntary Voting System Guidelines. The notice contained an incorrect address.

**FOR FURTHER INFORMATION CONTACT:** Paul Aumayr, phone (301) 960–1216, email: *paumayr@eac.gov;* U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of March 9, 2023 in FR Doc. 2023–04783, on page 14613 in the first column, correct the **ADDRESSES** caption to read:

**ADDRESSES:**

*Submission of Comments:* Comments on updates to VVSG 2.0 should be submitted electronically via *https://www.regulations.gov/document/EAC_FRDOC_0001-0193* (FDMS docket ID: EAC–2023–0001). Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Testing & Certification.

*Obtaining a copy of VVSG 2.0:* To obtain a copy of the VVSG 2.0 Requirements (1) Download a copy at *https://www.eac.gov/sites/default/files/TestingCertification/Voluntary_Voting_System_Guidelines_Version_2_0.pdf;* or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Testing & Certification.

**Amanda Joiner,**

*Acting General Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2023–05342 Filed 3–15–23; 8:45 am]

BILLING CODE P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER23–1279–000]**

### DTE Energy Services, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of DTE Energy Services, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214

of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 30, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 10, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023–05424 Filed 3–15–23; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP23–57–000]**

### Texas Eastern Transmission, LP; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Grand Chenier Compressor Station Amendment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Grand Chenier Compressor Station Abandonment Project involving abandonment of facilities by Texas Eastern Transmission, LP (Texas Eastern) in Cameron Parish, Louisiana. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on April 10, 2023. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on February 10, 2023, you will need to file those comments in Docket No. CP23–57–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Texas Eastern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

**Public Participation**

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to

assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is also on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP23–57–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

## Summary of the Proposed Project

Texas Eastern proposes to abandon its existing Grand Chenier Compressor Station in Cameron Parish, Louisiana. Texas Eastern would disconnect and remove aboveground structures and associated appurtenances along with all piping and other buried structures to a depth of two feet below grade. Texas Eastern's Line 41 and associated mainline valve would remain in-service.

In 2019, the Commission issued orders approving abandonment of certain segments of Texas Eastern's Cameron System under Docket Nos. CP18–485–000, CP18–486–000, and CP18–505–000. According to Texas Eastern, the abandonment of these Cameron System segments removed the need for the Grand Chenier Compressor Station.

The general location of the project facilities is shown in appendix 1.[1]

## Land Requirements for Construction

Abandonment of the compressor station would require 19.8 acres of land, including 17.3 acres of temporary workspace and about 2.3 acres of existing permanent and temporary access roads that would require minor improvements. Texas Eastern would return all workspaces, permanent access roads, and temporary access roads to pre-abandonment conditions and use upon completion of the project.

## NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- environmental justice;
- land use;
- air quality and noise;
- reliability and safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

## Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. 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 TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP23–57–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: March 10, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023–05415 Filed 3–15–23; 8:45 am]

**BILLING CODE 6717–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[FR ID 131583]**

### Deletion of Item From March 16, 2023 Open Meeting

March 13, 2023.

The following item was adopted by the Commission on March 10, 2023 and deleted from the list of items scheduled for consideration at the Thursday, March 16, 2023, Open Meeting. The item was previously listed in the Commission's Sunshine Notice on Thursday, March 9, 2023.

| | | |
|---|---|---|
| 5 ..... | Engineering and technology ..... | *Title:* Updating Equipment Testing Standards (ET *Docket No.* 21–363).<br>*Summary*: The Commission will consider a Report and Order which would incorporate standards that are to be used in the testing of equipment to ensure compliance with FCC rules. |

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2023–05405 Filed 3–15–23; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0065; FR ID 130840]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before May 15, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0065.

*Title:* Applications for New Authorization or Modification of Existing Authorization Under Part 5 of the FCC Rules—Experimental Radio Service.

*Form Number:* FCC Form 442.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit; not-for-profit institutions, individuals or households, state, local or tribal government.

*Number of Respondents and Responses:* 405 respondents; 655 responses.

*Estimated Time per Response:* 15 hours.

*Frequency of Response:* On occasion reporting requirements; recordkeeping requirements; and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4, 302, 303, 307 and 336 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 3,474 hours.

*Total Annual Cost:* $52,150.

*Needs and Uses:* The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60-day comment period to obtain the three-year clearance.

The Spectrum Horizons License will be available for experiments and demonstrations of equipment designed to operate exclusively on any frequency above 95 GHz.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2023–05398 Filed 3–15–23; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0686, OMB 3060–0944 and OMB 3060–1163; FR ID 131013]**

## Information Collections Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before May 15, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0686.

*Title:* International Section 214 Authorizations, 47 CFR 63.10–63.25, 1.40001, 1.40003.

*Form No.:* ITC–214—International Section 214 Authorization Application (revising form); ITC–ASG/TC—International Section 214 Authorization Assignment or Transfer of Control of Authorization (revising form); ITC–FCN—International Section 214 Authorization Foreign Carrier Notification (revising form); ITC–STA—International Section 214 Authorization Special Temporary Authority (revising form); ITC–AMD—International Section 214 Authorization Amendment (new form); ITC–MOD—International Section 214 Authorization Modification (new form); ITC–RPT—International Section 214 Authorization Dominant Carrier Quarterly Reports (new form); ITC–WAV—International Section 214 Authorization Waiver Request (new form); and, ITC–DSC—International Section 214 Authorization Discontinuance of Service (new form).

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 228 respondents; 648 responses.

*Estimated Time per Response:* 1 hour to 120 hours.

*Frequency of Response:* On occasion, annual and quarterly reporting requirements, third party disclosure requirement, and recordkeeping requirement.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for Part 1 of this information collection is contained in 47 U.S.C 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e). The statutory authority for part 63 of this information collection is contained in sections 1, 4(j), 10, 11, 201–205, 214, 218, 403, and 651 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 2,709 hours.

*Annual Cost Burden:* $992,830.

*Needs and Uses:* The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–0686 to incorporate changes from three Commission orders: the *Mandatory Electronic Filing Order,* FCC 21–87, the *2020 Executive Branch Review Order,* FCC 20–122 and the *2021 Executive Branch Standard Questions Order,* FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its online, web-based electronic filing system—the International Bureau Filing System (IBFS). To improve the Commission's collection of information related to international section 214 authorizations (international 214s) and to incorporate the new requirements, the Commission revised current application forms and added new forms.

First, the *Mandatory Electronic Filing Order* requires that any remaining applications and reports administered by the International Bureau that are filed on paper or through an alternative filing process should filed electronically once forms become available in IBFS. The Order sought to reduce costs and administrative burdens, and therefore to

result in greater efficiencies, facilitate faster and efficient communications, and overall improve transparency to the public.

Second, the *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* create new requirements associated with certain applications, including international 214 applications, with reportable foreign ownership that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues as well as other changes. In the *2020 Executive Branch Review Order,* the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the *2021 Executive Branch Standards Questions Order,* the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to international 214s. International 214 applicants with reportable foreign ownership will be required to answer the questions, and file their responses, as well as a copy of the FCC application, directly with the Committee.

Finally, the Commission is in the process of modernizing IBFS (IBFS Modernization). This includes developing new and revised international 214 application forms to improve the Commission's information collection and comply with the new requirements. Until the electronic forms are approved, international 214 applicants are required to provide the information required by *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* by filing current applications and filing separate documents into IBFS to comply with the rules. We estimate that the projected completion date for the modernized IBFS, including all international 214 application forms, will be September, 2023.

*OMB Control Number:* 3060–0944.

*Title:* Cable Landing License Act, 47 CFR 1.767, 1.768, 1.40001, 1.40003, Executive Order 10530.

*Form Number:* SCL–LIC—Submarine Cable Landing License Application (revising form); SCL–STA—Submarine Cable Landing License Special Temporary Authority (revising form); SCL–FCN—Submarine Cable Landing License Foreign Carrier Affiliation (revising form); SCL–ASG/TC—Submarine Cable Landing License Assignment or Transfer of Control of License (new form); SCL–LPN—Submarine Cable Landing License Landing Point Notification (new form); SCl_MOD—Submarine Cable Landing License Modification (new form); SCL–RPT—Submarine Cable Landing License Quarterly Report (new form); SCL–RWL—Submarine Cable Landing License Renewal (new form); and, SCL–WAV—Submarine Cable Landing License Waiver Request (new form).

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents and Responses:* 46 respondents; 146 responses.

*Estimated Time per Response:* 1 to 120 hours.

*Frequency of Response:* On occasion reporting requirement, Quarterly reporting requirement, Recordkeeping requirement and third-party disclosure requirement.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, Executive Order 13913, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155, 303(r), 309, and 403.

*Total Annual Burden:* 855 hours.

*Total Annual Cost:* $307,355.

*Needs and Uses:* The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve revisions to OMB Control No. 3060–0944 to incorporate the new requirements adopted by the Commission in the *2020 Executive Branch Review Order,* FCC 20–133 and in the *2021 Executive Branch Standard Questions Order,* FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its International Bureau Filing System (IBFS). To improve the Commission's collection of information related to submarine cable applications and to incorporate the new requirements, the Commission revised current submarine cable application forms and added new forms.

*First,* the *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* create new requirements associated with certain applications, including submarine cable applications, with reportable foreign ownership that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues as well as other changes. In the *2020 Executive Branch Review Order,* the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the *2021 Executive Branch Standards Questions Order,* the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions

will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to submarine cables. Submarine cable applicants with reportable foreign ownership will be required to answer the questions and file their responses directly with the Committee.

*Second,* the Commission is in the process of modernizing IBFS (IBFS Modernization), including developing new and revised submarine cable application forms to improve the Commission's information collection and comply with the new requirements. Until the electronic forms are approved, submarine cable applicants are required to provide the information required by *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* by filing current applications and filing separate documents into IBFS to comply with the rules. We estimate that the projected completion date for the modernized IBFS, including all cable landing license application forms, will be September, 2023.

*OMB Control Number:* 3060–1163.

*Title:* 47 CFR 1.5001–1.5004 Regulations Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended.

*Form Number:* ISP–PDR—Section 310(b) Petition for Declaratory Ruling (new form); ISP–AMD—Section 310(b) Petition for Declaratory Ruling Amendment; and, ISP–WAV Section 310(b) Petition for Declaratory Ruling Waiver Requet.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 21 respondents; 53 responses.

*Estimated Time per Response:* 1 hour to 120 hours.

*Frequency of Response:* On-occasion reporting requirement.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

*Total Annual Burden:* 1,304 hours.

*Total Annual Cost:* $435,825.

*Needs and Uses:* The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–1163 to incorporate new requirements adopted by the Commission in the *2020 Executive Branch Review Order,* FCC 20–133 and the *2021 Executive Branch Standard Questions Order,* FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its online, web-based electronic filing system—the International Bureau Filing System (IBFS). The Commission has developed new IBFS forms to improve the Commission's collection of information related to foreign ownership petitions for declaratory ruling under section 310(b) of the Communications Act of 1934, as amended (the Act), (section 310(b) petitions or petitions) related to common carrier wireless, aeronautical en route and aeronautical fixed radio station licenses (collectively, wireless common carrier licenses) and to incorporate the new requirements.

First, the *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* create new requirements associated with certain applications, including section 310(b) petitions that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues as well as other changes. In the *2020 Executive Branch Review Order,* the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

Second, in the *2021 Executive Branch Standards Questions Order,* the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that petitioners currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Petitioners will be required to submit their responses to the Standard Questions and a copy of the section 310(b) petition, directly with the Committee. Broadcast petitioners will be required to answer the questions (PII supplement), and common carrier wireless petitioners will be required to answer the questions.

Finally, the Commission is in the process of modernizing IBFS (IBFS Modernization). Common carrier wireless section 310(b) petitions are filed through IBFS while broadcast section 310(b) petitions are filed through the Media Bureau's Licensing and Management System (LMS) when submitted with a broadcast construction permit, assignment, or transfer of control application. The IBFS Modernization includes developing forms for the submission of petitions related to common carrier wireless licenses to improve the Commission's information collection and comply with the new requirements. Until the new IBFS forms are approved, common carrier wireless section 310(b) petitioners will be required to provide the information required by *2020 Executive Branch Review Order* and the *2021 Executive Branch Standard Questions Order* by filing current petitions and filing separate documents into IBFS to comply with the rules. We estimate that the projected completion date for the modernized IBFS, including all forms related to common carrier wireless section 310(b) petitions, will be September, 2023.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2023–05399 Filed 3–15–23; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[FR ID 130889]**

### Open Commission Meeting Thursday, March 16, 2023

March 9, 2023.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 16, 2023, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

| Item No. | Bureau | Subject |
|---|---|---|
| 1 | Wireless Tele-Communications and International. | *Title:* Single Network Future: Supplemental Coverage from Space (GN Docket No. 23–65); Space Innovation (IB Docket 22–271.<br>*Summary:* The Commission will consider a Notice of Proposed Rulemaking that would propose a new regulatory framework for supplemental coverage from space. Through this proposed framework, satellite operators collaborating with terrestrial providers would be able to operate space stations on currently licensed, flexible-use spectrum to expand coverage to the terrestrial provider's subscribers. |
| 2 | Wireline Competition | *Title:* Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act (WC Docket No. 23–62); Rates for Interstate Inmate Calling Services (WC Docket No. 12–375).<br>*Summary:* The Commission will consider a Notice of Proposed Rulemaking and Order, which would begin the Commission's implementation of the Martha Wright-Reed Just and Reasonable Communications Act of 2022. The Notice of Proposed Rulemaking seeks comment on how the Commission should interpret that Act's language to ensure just and reasonable rates and charges for incarcerated people's audio and video communications services. The Order will delegate authority to the Wireline Competition Bureau and the Office of Economics and Analytics to update and restructure their most recent data collection as appropriate to fulfill the requirements of the new statute. |
| 3 | Wireline Competition | *Title:* Call Authentication Trust Anchor (WC Docket No. 17–97).<br>*Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking that would close a critical gap in the STIR/SHAKEN caller ID authentication regime, expand robocall mitigation requirements for all providers, adopt more robust enforcement tools, and seek comment on additional steps to further enhance the effectiveness of the STIR/SHAKEN framework. |
| 4 | Consumer and Governmental Affairs | *Title:* Targeting and Eliminating Unlawful Text Messages (CG Docket No. 21–402); Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02–278).<br>*Summary:* The Commission will consider a Report and Order which would require that providers block texts purporting to be from numbers on a reasonable Do-Not-Originate list; and make available a single point of contact for text message blocking complaints. The Commission will also consider a Further Notice of Proposed Rulemaking which would propose to require further blocking of illegal robotexts; expand Do-Not-Call protections to robotexts; and protect consumers from getting robotexts and robocalls from multiple, unexpected callers when they provide their consent on websites for comparison shopping. |
| 5 | Engineering and Technology | *Title:* Updating Equipment Testing Standards (ET Docket No. 21–363).<br>*Summary:* The Commission will consider a Report and Order which would incorporate standards that are to be used in the testing of equipment to ensure compliance with FCC rules. |
| 6 | Media | *Title:* Audio Description DMA Expansion (MB Docket No. 11–43).<br>*Summary:* The Commission will consider a Further Notice of Proposed Rulemaking which would propose to expand support for individuals who are blind or visually impaired by expanding audio description requirements to additional market areas. The proposal would help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. |
| 7 | Enforcement | *Title:* Enforcement Bureau Action.<br>*Summary:* The Commission will consider an enforcement action. |
| 8 | Enforcement | *Title:* Enforcement Bureau Action.<br>*Summary*: The Commission will consider an enforcement action. |

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

*Press Access*—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the

Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2023–05404 Filed 3–15–23; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 31, 2023.

*A. Federal Reserve Bank of Dallas* (Karen Smith, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201–2272. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *SBT Bancshares, Inc., Dallas, Texas;* to engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2023–05388 Filed 3–15–23; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 31, 2023.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Ilstrup 2023 Dynasty Trust, Milwaukee, Wisconsin, Shane O. Ilstrup, Trempealeau, Wisconsin, and Peter J. Wilder, Pewaukee, Wisconsin, as co-trustees;* to join the Ilstrup Family Control Group, a group acting in concert, to acquire voting shares of Firsnabanco, Inc. and thereby indirectly acquire voting shares of Citizens First Bank, both of Viroqua, Wisconsin.

Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2023–05387 Filed 3–15–23; 8:45 am]

**BILLING CODE P**

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Notice of Board Meeting

**DATES:** March 28, 2023 at 10 a.m.

**ADDRESSES:** Telephonic. Dial-in (listen only) information: Number: 1–202–599–1426, Code: 800 699 968#; or via web: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_YjQxNDZmZjgtNjczY y00OGMyLTlkN2MtYz FlYTY5ZWQ0YWM3%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-e3fd-4f35-b43d-1a7afae 5910d%22%2c%22Oid%22%3a%227c8d802c-5559-41ed-9868-8bfad5d44af9%22%7d.*

**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 February 28, 2022 Board Meeting Minutes
2. Investment Manager Annual Service Review (BlackRock)
3. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Report
   (c) Legislative Report
4. Quarterly Report
   (d) Vendor Risk Management
5. Enterprise Risk Management Update
6. Internal Audit Update

*Closed Session*

7. Information covered under 5 U.S.C. 552b(c)(9)(B) and (c)(10).

*Authority:* 5 U.S.C. 552b(e)(1).

Dated: March 13, 2023.

**Dharmesh Vashee,**

*General Counsel, Federal Retirement Thrift Investment Board.*

[FR Doc. 2023–05373 Filed 3–15–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Availability of Program Application Instructions for Title VII, Part C of the Rehabilitation Act, Centers for Independent Living (CILs) for Disaster Recovery Assistance in Florida and Puerto Rico

*Title:* Disaster Assistance for Centers for Independent Living in Florida and Puerto Rico.

*Announcement Type:* Initial.

*Statutory Authority:* The statutory authority for grants under this program announcement is through the Public Health and Social Service Emergency Fund (Pub. L. 117–2) and awards authorized under Part C of the Rehabilitation Act of 1973 (29. U.S.C. 796f *et seq.*), Centers for Independent Living shall be provided funding under this opportunity.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.432.

**DATES:** The deadline date for the submission of the Disaster Assistance for Disability Programs in Florida and Puerto Rico: Centers for Independent Living is 11:59 p.m. Eastern Time April 17, 2023.

### I. Funding Opportunity Description

The Administration for Community Living (ACL) announces a new funding opportunity to address the needs of people with disabilities impacted by Hurricanes Fiona and Ian. People with disabilities often have unique needs during a crisis. For example, they may have a wider variety of functional limitations, sometimes requiring more supports, many of which are often in short supply during and after a crisis event. It is critical that individuals, service providers, and communities actively engage in emergency planning and response that is inclusive of people with disabilities to ensure they continue to be supported in their communities and not in institutions. Effective emergency and disaster response and recovery promotes and protects the health of people and the communities where they live, learn, work, and play. The disability networks funded by ACL play essential roles in that work. As the nation's visible and trusted network of programs, these organizations provide a variety of services, including those related to assisting with emergency and disaster recovery efforts, such as offering case management support, relocating impacted individuals to safe housing in the community, and ensuring state and local services provided are accessible to people with disabilities. Understanding the resources available and the needs of people with disabilities in their areas, these networks have over 50 years of community experience and possess intimate knowledge of how to address emergencies and disasters.

Puerto Rico and Florida were directly impacted by major category 4 hurricanes which significantly affected the vital services and programs that support older adults, people with disabilities, and their family caregivers to live as independently as possible in their own communities. The Aging and Disability Network has been attempting to meet an increased need for services in impacted communities with current Older Americans Act (OAA) funding, Rehabilitation Act funding, and Developmental Disabilities Act funding. None of these authorities include direct funding for disaster related activities and programs are redirecting funds intended for other activities to address immediate needs caused by the Hurricanes. This funding is intended for the ACL Aging and Disability Network in Florida and Puerto Rico to help advance recovery and response efforts that are inclusive of people with disabilities and provide gap-filling services for older adults, people with disabilities, and their family caregivers for immediate and long-term disaster response and recovery.

Specifically, this program aims to fund CILs to support the needs of people with disabilities who were impacted by Hurricane Ian in Florida and Hurricane Fiona in Puerto Rico to ensure their health, wellness, and safety. Eligible entities, Centers for Independent Living (CILs) under the Rehabilitation Act (Rehab Act), shall be provided funding for allowable activities that are targeted for recovery and response efforts for the disability community.

Allowable costs include program and staffing costs to support response and recovery efforts; program materials and supply costs to support response and recovery efforts; general outreach and information and referral regarding disaster and recovery assistance for people with disabilities; monitoring emergency shelters and temporary dwellings for accessibility, health, wellness, and safety; coordination with emergency response, recovery partners, and other state, local, and tribal agencies to ensure the needs of people with disabilities are met; accessible housing location, home modification, and transition assistance for those placed in institutional settings or in need of safe housing; food assistance and home delivered groceries/meals; assistance with personal care attendants and transportation; and replacement and distribution costs of critical supplies, including personal hygiene items, durable medical equipment, and medication not covered through insurance. As needed, funds may also support rebuilding of damaged offices of ACL grantees, including CILs. Although not required for funding, grantees are encouraged to explore options for funding to sustain emergency response activities after the end of the grant. There is no cost sharing or matching requirement for this funding.

Award recipients will be required to submit an annual progress report in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

To be eligible to receive this grant, the eligible entity must submit:

- an action plan (maximum 5–10 pages in 12-point, Times New Roman font). The action plan should define the need they plan to address and how they intend to implement authorized activities to address the needs of people with disabilities impacted by Hurricanes Fiona or Ian.
- a budget request (5 pages maximum) with justification for how the funds would be used to support disaster recovery efforts.
- a Letter of Assurance to ACL (see below, ''Section III. Eligibility Criteria and Other Requirements'' and ''Section IV. Submission Information'').

Collaboration with other entities that serve people with disabilities in the plan and the budget is encouraged. Eligible entities that do not submit an action plan, a budget request with justification, and a Letter of Assurance will not be considered for funding.

### II. Award Information

*1. Funding Instrument Type*

These awards will be made in the form of new grants to eligible entities.

*2. Anticipated Total Funding per Budget Period*

Awards made under this announcement have an estimated start

date of October 1, 2022, and an estimated end date of September 30, 2024, for a two-year budget and performance period.

The total available funding for this opportunity is $4 million for recovery efforts in Florida, and $1 million for recovery efforts in Puerto Rico. The final grant amount awarded to each grantee will vary based on individual budget requests; the reasonableness and rationale of the submitted plan and budget to meet the needs of individuals with disabilities; and availability of funding.

**III. Eligibility Criteria and Other Requirements**

*1. Eligible Entities*

The eligible entity for these awards is designated by ACL as Centers for Independent Living under Part C of the Rehabilitation Act that are supporting recovery efforts of Hurricane Fiona or Ian in Puerto Rico and Florida.

*2. Match*

Cost Sharing or Matching is not required.

*3. Other Requirements*

A. Letter of Assurance

A Letter of Assurance is required to be submitted by the eligible entity in order to receive an award. The Letter of Assurance must include the following:

1. Assurance that the award recipient is an entity designated as a Part C funded CIL under the Rehab Act.

2. Assurance that funds will be spent in ways consistent with the purpose of the funding.

3. Assurance to provide annual federal financial reports.

4. Assurance to provide annual program reports in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

B. Action Plan

To be eligible to receive this grant, the eligible entity must submit an action plan detailing the need(s) they plan to address of people with disabilities impacted by Hurricanes Ian or Fiona and how they intend to implement authorized activities to address these needs. The plan must include a budget request with a budget justification for how the funds would be used to support disaster recovery efforts.

C. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

**IV. Submission Information**

*1. Application Packet*

To receive funding, eligible entities must submit: a Letter of Assurance containing all the information outlined in Section III above; an Action Plan that details the identified need and how the entity proposes to address the need; and a budget request includes a breakdown of the budgetary costs with supporting justification that fully explains and justifies the costs for each major budget item.

Applications should be submitted electronically to the OILP Program Officer assigned to that region. For Florida, it is Veronica Hogan, *veronica.hogan@acl.hhs.gov* and for Puerto Rico it is Jennifer Martin at *Jennifer.martin@acl.hhs.gov.*

*2. Submission Dates and Times*

To receive consideration, Application packets must be submitted by 11:59 p.m. Eastern Time on April 17, 2023. Letters of Assurance should be submitted electronically via email and have an electronic time stamp indicating the date/time submitted.

**VII. Agency Contacts**

*1. Programmatic and Submission Issues*

Direct programmatic and submission inquiries to *Edward.Ahern@acl.hhs.gov.*

*Statutory Authority:* The statutory authority for grants under this program announcement is through the Public Health and Social Service Emergency Fund (Pub. L. 117–2) and awards authorized under Part C of the Rehabilitation Act of 1973 (29. U.S.C. 796f *et seq.*), Centers for Independent Living shall be provided funding under this opportunity.

Dated: March 10, 2023.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2023–05328 Filed 3–15–23; 8:45 am]

BILLING CODE 4154–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Availability of Program Application Instructions for Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act, State Councils on Developmental Disabilities for Disaster Recovery Assistance in Florida and Puerto Rico

*Title:* Disaster Assistance for State Councils on Developmental Disabilities in Florida and Puerto Rico.

*Announcement Type:* Initial.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.620.

**DATES:** The deadline date for the submission of the Disaster Assistance for Disability Programs in Florida and Puerto Rico: State Councils on Developmental Disabilities is 11:59 p.m. Eastern Time April 17, 2023.

**I. Funding Opportunity Description**

The Administration for Community Living (ACL) announces a new funding opportunity to address the needs of people with disabilities impacted by Hurricanes Fiona and Ian. People with disabilities often have unique needs during a crisis. For example, they may have a wider variety of functional limitations, sometimes requiring more supports, many of which are often in short supply during and after a crisis event. It is critical that individuals, service providers, and communities actively engage in emergency planning and response that is inclusive of people with disabilities to ensure they continue to be supported in their communities and not in institutions. Effective emergency and disaster response and recovery promotes and protects the health of people and the communities where they live, learn, work, and play. The disability networks funded by ACL play essential roles in that work. As the nation's visible and trusted network of programs, these organizations provide a variety of services, including those related to assisting with emergency and disaster recovery efforts, such as offering case management support, relocating impacted individuals to safe housing in the community, and ensuring state and local services provided are accessible to people with disabilities. Understanding the resources available and the needs of people with disabilities in their areas, these networks have over 50 years of community experience and possess intimate knowledge of how to address emergencies and disasters.

Puerto Rico and Florida were directly impacted by major category 4 hurricanes which significantly affected the vital services and programs that support older adults, people with disabilities, and their family caregivers to live as independently as possible in their own communities. The Aging and Disability Network has been attempting to meet an increased need for services in impacted communities with current Older Americans Act (OAA) funding, Developmental Disabilities Act funding, and Developmental Disabilities Act funding. None of these authorities include direct funding for disaster related activities and programs are redirecting funds intended for other activities to address immediate needs caused by the Hurricanes. This funding is intended for the ACL Aging and Disability Network in Florida and Puerto Rico to help advance recovery and response efforts that are inclusive of people with disabilities and provide gap-filling services for older adults, people with disabilities, and their family caregivers for immediate and long-term disaster response and recovery.

Specifically, this program aims to fund SCDDs to support the needs of people with disabilities who were impacted by Hurricane Ian in Florida and Hurricane Fiona in Puerto Rico to ensure their health, wellness, and safety. Eligible entities, SCDDs, under the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), shall be provided funding for allowable activities that are targeted for recovery and response efforts for the disability community.

Allowable costs include program and staffing costs to support response and recovery efforts; program materials and supply costs to support response and recovery efforts; general outreach and information and referral regarding disaster and recovery assistance for people with disabilities; monitoring emergency shelters and temporary dwellings for accessibility, health, wellness, and safety; coordination with emergency response, recovery partners, and other state, local, and tribal agencies to ensure the needs of people with disabilities are met; accessible housing location, home modification, and transition assistance for those placed in institutional settings or in need of safe housing; food assistance and home delivered groceries/meals; assistance with personal care attendants and transportation; and replacement and distribution costs of critical supplies, including personal hygiene items, durable medical equipment, and medication not covered through insurance. As needed, funds may also support rebuilding of damaged offices of ACL grantees, including SCDDs. Although not required for funding, grantees are encouraged to explore options for funding to sustain emergency response activities after the end of the grant. There is no cost sharing or matching requirement for this funding.

Award recipients will be required to submit an annual progress report in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

To be eligible to receive this grant, the eligible entity must submit:

- An action plan (maximum 5–10 pages in 12-point, Times New Roman font). The action plan should define the need they plan to address and how they intend to implement authorized activities to address the needs of people with disabilities impacted by Hurricanes Fiona or Ian.
- A budget request (5 pages maximum) with justification for how the funds would be used to support disaster recovery efforts.
- A Letter of Assurance to ACL (see below, ''Section III. Eligibility Criteria and Other Requirements'' and ''Section IV. Submission Information'').

Collaboration with other entities that serve people with disabilities in the plan and the budget is encouraged. Eligible entities that do not submit an action plan, a budget request with justification, and a Letter of Assurance will not be considered for funding.

## II. Award Information

### *1. Funding Instrument Type*

These awards will be made in the form of new grants to eligible entities.

### *2. Anticipated Total Funding per Budget Period*

Awards made under this announcement have an estimated start date of October 1, 2022, and an estimated end date of September 30, 2024, for a two-year budget and performance period.

The total available funding for this opportunity is $4 million for recovery efforts in Florida, and $1 million for recovery efforts in Puerto Rico. The final grant amount awarded to each grantee will vary based on individual budget requests; the reasonableness and rationale of the submitted plan and budget to meet the needs of individuals with disabilities; and availability of funding.

## III. Eligibility Criteria and Other Requirements

### *1. Eligible Entities*

The eligible entity for these awards is designated by ACL as SCDDs under the DD Act that are supporting recovery efforts of Hurricane Fiona or Ian in Puerto Rico and Florida.

### *2. Match*

Cost Sharing or Matching is not required.

### *3. Other Requirements*

A. Letter of Assurance

A Letter of Assurance is required to be submitted by the eligible entity in order to receive an award. The Letter of Assurance must include the following:

1. Assurance that the award recipient is an entity designated as the State Councils on Developmental Disabilities under the DD Act.
2. Assurance that funds will be spent in ways consistent with the purpose of the funding.
3. Assurance to provide annual federal financial reports.
4. Assurance to provide annual program reports in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

B. Action Plan

To be eligible to receive this grant, the eligible entity must submit an action plan detailing the need(s) they plan to address of people with disabilities impacted by Hurricanes Ian or Fiona and how they intend to implement authorized activities to address these needs. The plan must include a budget request with a budget justification for how the funds would be used to support disaster recovery efforts.

C. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

## IV. Submission Information

### *1. Application Packet*

To receive funding, eligible entities must submit: a Letter of Assurance containing all the information outlined in Section III above; an Action Plan that details the identified need and how the entity proposes to address the need; and

a budget request includes a breakdown of the budgetary costs with supporting justification that fully explains and justifies the costs for each major budget item.

Applications should be submitted electronically to the Allison Cruz at *allison.cruz@acl.hhs.gov.*

*2. Submission Dates and Times*

To receive consideration, Application packets must be submitted by 11:59 p.m. Eastern Time on April 17, 2023. Letters of Assurance should be submitted electronically via email and have an electronic time stamp indicating the date/time submitted.

**VII. Agency Contacts**

*1. Programmatic and Submission Issues*

Direct programmatic and submission inquiries to *allison.cruz@acl.hhs.gov.*

*Statutory Authority:* The statutory authority for grants under this program announcement is through the Public Health and Social Service Emergency Fund (Pub. L. 117–2) and awards authorized under Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act, State Councils on Developmental Disabilities (SCDD) shall be provided funding under this opportunity.

Dated: March 10, 2023.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2023–05329 Filed 3–15–23; 8:45 am]

BILLING CODE 4154–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; of the State Councils on Developmental Disabilities (Councils) State Plan OMB Control Number 0985–0029

**AGENCY:** Administration for Community Living, HHS.

**ACTION:** Notice.

**SUMMARY:** The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-day notice collects comments on the information collection requirements related to the Developmental Disabilities State Plan OMB control number 0985–0029.

**DATES:** Submit written comments on the collection of information by April 17, 2023.

**ADDRESSES:** Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

**FOR FURTHER INFORMATION CONTACT:** Sara Newell-Perez, 202–795–7413 or *Sara.Newell-Perez@acl.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance of the Developmental Disabilities State Plan OMB control number 0985–0029. The State Councils on Developmental Disabilities (Councils) are authorized in Subtitle B, of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), as amended, [42 U.S.C. 15001 *et seq.*] (The DD Act). The DD Act requires Councils to submit a five-year State plan. Section 124(a) [42 U.S.C. 15024(a)], states that: *Any State desiring to receive assistance under this subtitle shall submit to the Secretary, and obtain approval of, a 5-year strategic State plan under this section.* The DD Act regulations outlines additional guiding requirements in 45 CFR part 1326.30(a), which states that: *In order to receive Federal financial assistance under this subpart, each State Developmental Disabilities Council must prepare and submit to the Secretary, and have in effect, a State plan which meets the requirements of sections 122 and 124 of the Act (42 U.S.C. 6022 and 6024) and these regulations.*

The Council is responsible for the development, and submission of the State plan as well as implementation of the activities described in the plan. The Council updates the State plan annually during the five years. The State plan provides information on individuals with developmental disabilities in the State, and a description of the services available to them and their families. The State plan sets forth the goals and specific objectives to be achieved by the State Council in pursuing systems change and capacity building that result in empowering people with developmental disabilities to lead independent lives within the community. It describes State priorities, strategies, and actions, and the allocation of funds to meet these goals and objectives. Additionally, the data collected in the State plan and submitted to ACL is also used to comply with the GPRA Modernization Act of 2010 (GPRAMA).

The State Plan is used in three ways. First, it provides a framework for citizens, State governments, and other key stakeholder to provide input and comments to help shape the goals and objectives during the development stage. Secondly, it is used by each Council as a planning document to operationalize its goals and strategies. Finally, it provides information the Department needs for monitoring and providing technical assistance to ensure the Council is compliant.

This IC also adds elements to ensure ACL is gathering necessary and relevant demographic information to assess diversity and equity in support of the Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and the Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals. On this issue, AoD will follow ACL approved policy for the inclusion of sexual orientation and gender identity (SOGI) data elements.

**Comments in Response to the 60-Day Federal Register Notice**

A notice published in the **Federal Register** (87 FR 73559) on November 30, 2022. During the 60-day notice there were four public comments submitted, each comment included a range of topics. ACL lists the commenter by topic and provides response in the included table.

| Data collection form | Comment | ACL response |
|---|---|---|
| State Plan (Commenters 1–4) | Burden hours do not accurately reflect the work of the Council and should be increased. | Burden calculation was based on the average entry estimates shared by a sample size of Councils. While Councils range in staffing size, number of goals and activities they include in their State Plans. Past workgroups comprised of DD Council staff developed the existing State plan template after much consensus building conversations and a thorough vetting process. ACL will continue to have conversations on areas for potential streamlining as part of our continuous quality improvement efforts. Areas where the reporting platform can assist in streamlining will be taken under consideration. |
| State Plan (Commenter 1, 3) .. | Some of the required data points are difficult to collect and do not always correlate 1:1 to demographic data collected or reported through federal and state sources. Data collection is only utilitarian as to the extent the data is applied to correct or rectify an identified shortcoming. Asking some of these data points may result in people not attending council events or decreased data results. It is recommended to focus more on qualitative stories. ACL should give clear instructions on how the information collected relates to the plan. We collect much more information than we need to develop the plan. If the optional sections aren't needed, they should be deleted from the plan template. States feel obligated to provide the information because it's there. Also, the national data sets usually come to states after we've started our public input. That data isn't typically a driving force of plan/goal development. | ACL has conducted workgroups comprised of council staff to determine data sets and methods for collection. Training and technical assistance resources that describe what sections of the plan and data points are required versus optional will be shared again. ACL will continue to work with Councils to determine the effectiveness of data collection efforts and the results they provide. |
| State Plan (Commenter 1, 2) .. | While the intent of the Executive Orders to achieve equity and equality for LGBTQI individuals is vital, invasive, or highly personal demographic questions often elicit very low response rates. Survey respondents question as to why these questions are being asked at all, and if they are needed for the individual to obtain the services that they need. At times the terms and language used can be confusing for respondents. Each further question unrelated to the specific needs of the individual creates further mistrust with the interviewer or public survey process and adds an even greater time and work burden in adding new information into the State Plan. | As ACL works to implement new SOGI policies, a workgroup with DD network grantees will be developed to establish guidance on how to effectively capture these data requirements. |
| State Plan (Commenter 1, 3) .. | Uploading data, formatting, entering graphs, tables, web addresses and symbols is difficult in the current reporting platform. Staff spend significant time getting data to fit within existing character limits. ACL should explore automated collection techniques when appropriate, and other forms of information technology to reduce burden. | OIDD will explore platform capabilities as the commenters suggest (*e.g.,* uploading, copy/pasting opportunities). |
| State Plan (Commenter 4) ..... | There should not be subcategories that are added to create another indicator. Indicators should simply be the thing that is collected and reported.<br>—Instead of 'better able to say what they need', indicator IFA 2.3 should be 'has gained new skills and feels more empowered . . .'.<br>—IFA 2.4 and 2.5 can get confusing for reporting purposes. If there is a way to distinguish further, that would be helpful. | Performance measures were previously vetted through a workgroup comprised of Council and Federal staff. ACL will explore opportunities to enhance guidance and plain language to further explain what is being asked for. |
| State Plan (Commenter 4) ..... | When collecting Council, Staff, and grantee participant data, we recommend being able to report under Male, Female, ''X'' (instead of ''Other''), which is consistent with new legislation in our state. | We are following ACL guidance for collecting SOGI data and the instrument is updated to that effect. |

| Data collection form | Comment | ACL response |
|---|---|---|
| State Plan (Commenter 4) ..... | In Part A(i) ''Racial and Ethnic Diversity of the State Population,'' we would recommend adding ''Middle Eastern'' as a racial and ethnic group. It would be beneficial to be able to collect data racial/ethnic data on Middle Eastern population to make more visible any disparities they may experience. We would also recommend keeping ''Two or more races'' as one line without two additional subset lines (referring to ''Two races including Some other race'' and ''Two races excluding Some other race, and three or more races''). Those additional 2 subset lines are very general and do not provide enough specificity to act on or respond to that data. | We are following ACL guidance for collecting race and ethnicity data and the instrument is updated to that effect. |

*Estimated Program Burden:* ACL estimates the burden of this collection of information as follows:

| Respondent/data collection activity | Number of respondents | Responses per respondent | Hours per response | Total annual burden hours |
|---|---|---|---|---|
| State Councils on Developmental Disabilities State plan ..... | 56 | 1 | 367 | 20,522 |
| Total ..... | 56 | 1 | 367 | 20,522 |

Dated: March 10, 2023.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2023–05326 Filed 3–15–23; 8:45 am]

**BILLING CODE 4154–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Availability of Program Application Instructions for Disaster Recovery Assistance for the Florida Protection and Advocacy System (P&A)

*Title:* Disaster Assistance for the Florida Protection and Advocacy System.

*Announcement Type:* Initial.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.630.

**DATES:** The deadline date for the submission of the Disaster Assistance for the Florida Protection and Advocacy System is 11:59 p.m. Eastern Time April 17, 2023.

### I. Funding Opportunity Description

The Administration for Community Living (ACL) announces a new funding opportunity to address the needs of people with disabilities impacted by Hurricanes Ian. People with disabilities often have unique needs during a crisis. For example, they may have a wider variety of functional limitations, sometimes requiring more supports, many of which are often in short supply during and after a crisis event. It is critical that individuals, service providers, and communities actively engage in emergency planning and response that is inclusive of people with disabilities to ensure they continue to be supported in their communities and not in institutions. Effective emergency and disaster response and recovery promotes and protects the health of people and the communities where they live, learn, work, and play. The disability networks funded by the ACL play essential roles in that work. As the nation's visible and trusted network of programs, these organizations provide a variety of services, including those related to assisting with emergency and disaster recovery efforts, such as offering case management support, relocating impacted individuals to safe housing in the community, and ensuring state and local services provided are accessible to people with disabilities. Understanding the resources available and the needs of people with disabilities in their areas, these networks have over 50 years of community experience and possess intimate knowledge of how to address emergencies and disasters.

Florida was directly impacted by a major category 4 hurricane which significantly affected the vital services and programs that support older adults, people with disabilities, and their family caregivers to live as independently as possible in their own communities. The Aging and Disability Network has been attempting to meet an increased need for services in impacted communities with current Older Americans Act (OAA) funding, Rehabilitation Act funding, and Developmental Disabilities Assistance and Bill of Right Act funding. None of these authorities include direct funding for disaster related activities and programs are redirecting funds intended for other activities to address immediate needs caused by the Hurricanes. This funding is intended for the ACL Aging and Disability Network in Florida to help advance recovery and response efforts that are inclusive of people with disabilities and provide gap-filling services for older adults, people with disabilities, and their family caregivers for immediate and long-term disaster response and recovery.

Specifically, this program aims to fund the P&A to support the needs of people with disabilities who were impacted by Hurricane Ian in Florida to ensure their health, wellness, and safety. Eligible entities, Protection and Advocacy Systems (P&As) under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), shall be provided funding for allowable activities that are targeted for recovery and response efforts for the disability community.

Allowable costs include program and staffing costs to support response and recovery efforts; program materials and supply costs to support response and recovery efforts; general outreach and information and referral regarding disaster and recovery assistance for people with disabilities; monitoring emergency shelters and temporary dwellings for accessibility, health, wellness, and safety; coordination with

emergency response, recovery partners, and other state, local, and tribal agencies to ensure the needs of people with disabilities are met; accessible housing location, home modification, and transition assistance for those placed in institutional settings or in need of safe housing; food assistance and home delivered groceries/meals; assistance with personal care attendants and transportation; and replacement and distribution costs of critical supplies, including personal hygiene items, durable medical equipment, and medication not covered through insurance. As needed, funds may also support rebuilding of damaged offices of ACL grantees, including P&As. Although not required for funding, grantees are encouraged to explore options for funding to sustain emergency response activities after the end of the grant. There is no cost sharing or matching requirement for this funding.

Award recipients will be required to submit an annual progress report in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

To be eligible to receive this grant, the eligible entity must submit:

- An action plan (maximum 5–10 pages in 12-point, Times New Roman font). The action plan should define the need they plan to address and how they intend to implement authorized activities to address the needs of people with disabilities impacted by Hurricane Ian.
- A budget request (5 pages maximum) with justification for how the funds would be used to support disaster recovery efforts.
- A Letter of Assurance to ACL (see below, ''Section III. Eligibility Criteria and Other Requirements'' and ''Section IV. Submission Information'').

Collaboration with other entities that serve people with disabilities in the plan and the budget is encouraged. Eligible entities that do not submit an action plan, a budget request with justification, and a Letter of Assurance will not be considered for funding.

## II. Award Information

### *1. Funding Instrument Type*

These awards will be made in the form of new grants to eligible entities.

### *2. Anticipated Total Funding per Budget Period*

Awards made under this announcement have an estimated start date of October 1, 2022, and an estimated end date of September 30, 2024, for a two-year budget and performance period.

The total available funding for this opportunity is $4 million for recovery efforts in Florida. The final grant amount awarded to each grantee will vary based on individual budget requests; the reasonableness and rationale of the submitted plan and budget to meet the needs of individuals with disabilities; and availability of funding.

## III. Eligibility Criteria and Other Requirements

### *1. Eligible Entities*

The eligible entity for these awards is the state designated Protection and Advocacy System under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) that is supporting recovery efforts of Hurricane Ian in Florida.

### *2. Match*

Cost Sharing or Matching is not required.

### *3. Other Requirements*

A. Letter of Assurance

A Letter of Assurance is required to be submitted by the eligible entity in order to receive an award. The Letter of Assurance must include the following:

1. Assurance that the award recipient is the state designated P&A under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act).
2. Assurance that funds will be spent in ways consistent with the purpose of the funding.
3. Assurance to provide annual federal financial reports.
4. Assurance to provide annual program reports in the form of a written summary on the activities and/or staffing funded to support emergency and disaster response and recovery efforts and the results of these efforts, including number of people supported, number of partners involved, and the outcomes of these efforts.

B. Action Plan

To be eligible to receive this grant, the eligible entity must submit an action plan detailing the need(s) they plan to address of people with disabilities impacted by Hurricane Ian and how they intend to implement authorized activities to address these needs. The plan must include a budget request with a budget justification for how the funds would be used to support disaster recovery efforts.

C. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

## IV. Submission Information

### *1. Application Packet*

To receive funding, eligible entities must submit: a Letter of Assurance containing all the information outlined in Section III above; an Action Plan that details the identified need and how the entity proposes to address the need; and a budget request includes a breakdown of the budgetary costs with supporting justification that fully explains and justifies the costs for each major budget item.

Applications should be submitted electronically to the P&A Program Officer, Melvenia Wright, *melvenia.wright@acl.hhs.gov.*

### *2. Submission Dates and Times*

To receive consideration, Application packets must be submitted by 11:59 p.m. Eastern Time on April 17, 2023. Letters of Assurance should be submitted electronically via email and have an electronic time stamp indicating the date/time submitted.

## VII. Agency Contacts

### *1. Programmatic and Submission Issues*

Direct programmatic and submission inquiries to *melvenia.wright@acl.hhs.gov.*

*Statutory Authority:* The statutory authority for grants under this program announcement is through the Public Health and Social Service Emergency Fund (Pub. L. 117–2) and Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act), Protection and Advocacy Systems shall be provided funding under this opportunity.

Dated: March 10, 2023.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2023–05327 Filed 3–15–23; 8:45 am]

**BILLING CODE 4154–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2023–D–0608]**

### Development of Local Anesthetic Drug Products With Prolonged Duration of Effect; 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 ''Development of Local Anesthetic Drug Products With Prolonged Duration of Effect.'' The draft guidance reflects the Agency's current recommendations regarding drug development and trial design issues relevant to the study of local anesthetic drug products with prolonged duration of effect for which submission of a new drug application (NDA) is planned. The recommendations in the guidance are intended to assist developers in generating the data necessary to support different indications and labeling claims for these drugs.

**DATES:** Submit either electronic or written comments on the draft guidance by June 14, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

*Submit written/paper submissions as follows:*

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2023–D–0608 for ''Development of Local Anesthetic Drug Products With Prolonged Duration of Effect.'' 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 this 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:** Swati Patwardhan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3242, Silver Spring, MD 20993–0002, 301–796–4085, *swati.patwardhan@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Development of Local Anesthetic Drug Products With Prolonged Duration of Effect.'' The draft guidance provides recommendations to assist sponsors in the development of local anesthetic drug products with prolonged duration of effect for which submission of an NDA is planned. The guidance focuses on trial design considerations and pharmacokinetic, safety, and efficacy data necessary to support different indications for local anesthetic drug products with prolonged duration of effect.

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 ''Development of Local Anesthetic Drug Products With Prolonged Duration of Effect.'' 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 21 CFR part 312 relating to investigational new drug applications have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 314 relating to new drug applications have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 201 relating to prescription product labeling requirements have been approved under OMB control number 0910–0572.

### III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05396 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–0026]**

### Issuance of Priority Review Voucher; Rare Pediatric Disease Product

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that SKYCLARYS (omaveloxolone), approved February 28, 2023, and manufactured by Reata Pharmaceuticals, Inc., meets the criteria for a priority review voucher.

**FOR FURTHER INFORMATION CONTACT:** Cathryn Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1394, email: *Cathryn.Lee@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that SKYCLARYS (omaveloxolone), manufactured by Reata Pharmaceuticals, Inc., meets the criteria for a priority review voucher.

SKYCLARYS (omaveloxolone) capsule is for the treatment of Friedreich's ataxia in adults and adolescents aged 16 years and older.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about SKYCLARYS (omaveloxolone), go to the ''Drugs@FDA'' website at *https://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05364 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2023–N–0008]**

### Request for Nominations From Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives and Request for Nominations for Nonvoting Industry Representatives on the Blood Products Advisory Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is requesting that any industry organizations interested in participating in the selection of a nonvoting industry representative to serve on the Blood Products Advisory Committee (BPAC) for the Center for Biologics Evaluation and Research notify FDA in writing. FDA is also requesting nominations for a nonvoting industry representative(s) to serve on the BPAC. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

**DATES:** Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to FDA by April 17, 2023 (see sections I and II of this document for further details). Concurrently, nomination materials for prospective candidates should be sent to FDA by April 17, 2023.

**ADDRESSES:** All statements of interest from industry organizations interested in participating in the selection process of nonvoting industry representative nominations should be sent via email to Christina Vert (see **FOR FURTHER INFORMATION CONTACT**). All nominations for nonvoting industry representatives must be submitted electronically by accessing the FDA Advisory Committee Membership Nomination Portal at: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm.* Information about becoming a member of an FDA advisory committee can also be obtained by visiting FDA's website at: *https://www.fda.gov/AdvisoryCommittees/default.htm.*

**FOR FURTHER INFORMATION CONTACT:** Christina Vert or Marie DeGregorio, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 1244, Silver Spring, MD 20993–0002, 240–402–8054, email: *CBERBPAC@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Agency intends to add a nonvoting industry representative(s) to the following advisory committee:

### I. Blood Products Advisory Committee

BPAC reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of blood products derived from blood and serum or biotechnology that are

intended for use in the diagnosis, prevention, or treatment of human diseases, and, as required, any other product for which FDA has regulatory responsibility. BPAC also advises the Commissioner of Food and Drugs (the Commissioner) of its findings regarding screening and testing (to determine eligibility) of donors and labeling of the products, on clinical and laboratory studies involving such products, on the affirmation or revocation of biological products licenses, and on the quality and relevance of FDA's research program that provides the scientific support for regulating these agents.

BPAC will function at times as a medical device panel under the Federal Food, Drug, and Cosmetic Act (FD&C Act) Medical Device Amendments of 1976. As such, BPAC recommends classification of devices subject to its review into regulatory categories, recommends the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category, advises on formulation of product development protocols and reviews premarket approval applications for those devices to recommend changes in classification as appropriate, recommends exemption of certain devices from the application of portions of the FD&C Act, advises on the necessity to ban a device, and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

## II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter via email stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a notification to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current résumés. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for the committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

## III. Application Procedure

Individuals may self-nominate, and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Nomination must include a current, complete résumé or curriculum vitae for each nominee, including current business address and telephone number, email address if available, and a signed copy of the Acknowledgement and Consent form available at the FDA Advisory Committee Membership Nomination Portal (see **ADDRESSES**) within 30 days of publication of this document (see **DATES**). Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05358 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–D–1155]**

### The Use of Published Literature in Support of New Animal Drug Approvals; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a final guidance for industry #106 entitled ''The Use of Published Literature in Support of New Animal Drug Approvals.'' This guidance replaces existing guidance #106, ''The Use of Published Literature in Support of New Animal Drug Approvals,'' which FDA published in August 2000. It addressed the use of a single scientific article to support drug approval. This revision of the guidance document considers multiple uses of the scientific literature, including narrative reviews, systematic reviews, and meta-analyses to support approval of a new animal drug.

**DATES:** The announcement of the guidance is published in the **Federal Register** on March 16, 2023.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances 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–1155 for ''The Use of Published Literature in Support of New Animal Drug Approvals.'' 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 guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Amey Adams, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0816, *Amey.Adams@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the **Federal Register** of April 20, 2022 (87 FR 23523), FDA published the notice of availability for a draft guidance entitled ''The Use of Published Literature in Support of New Animal Drug Approvals'' giving interested persons until June 21, 2022, to comment on the draft guidance. FDA received several comments on the draft guidance, and those comments were considered as the guidance was finalized. For example, one comment requested that we further clarify and discuss the potential utility of published studies conducted outside of the United States; we added such language to the final guidance. In addition, other editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated April 2022.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''The Use of Published Literature in Support of New Animal Drug Approvals.'' 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 21 CFR part 514 have been approved under OMB control number 0910–0032.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: March 10, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05333 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2017–D–1105]**

### Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers; 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 ''Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers.'' The draft guidance provides information for sponsors, clinical investigators, institutional review boards (IRBs), contract research organizations (CROs), and other interested parties on the use of electronic systems, electronic records, and electronic signatures in clinical investigations of foods, medical products, tobacco products, and new animal drugs under FDA regulations. This draft guidance revises the draft guidance for industry issued in June 2017 entitled ''Use of Electronic Records and Electronic Signatures in Clinical Investigations Under 21 CFR part 11—Questions and Answers'' and, when finalized, will supersede the guidance for industry entitled ''Computerized Systems Used in Clinical Investigations'' (May 2007).

**DATES:** Submit either electronic or written comments on the draft guidance by May 15, 2023 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–2017–D–1105 for ''Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers.'' 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; Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Kunkoski, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3332, Silver Spring, MD 20993–0002, 301–796–6439, *Elizabeth.Kunkoski@fda.hhs.gov;* Diane Maloney, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911, *Diane.Maloney@fda.hhs.gov;* Soma Kalb, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G318, Silver Spring, MD 20993–0002, 301–796–6539, *Soma.Kalb@fda.hhs.gov;* Yuguang Wang, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., Rm. 4A–012, College Park, MD 20740, 240–402–1757, *Yuguang.Wang@fda.hhs.gov;* the Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Silver Spring, MD 20993–0002, 240–402–7970, *CTP-BIMO@fda.hhs.gov;* or Eric Nelson, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., MPN #4, Rm. 106, HFV–230, Rockville, MD 20855, 240–402–5642, *Eric.Nelson@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers.'' The draft guidance provides information for sponsors, clinical investigators, IRBs, CROs, and other interested parties on the use of electronic systems, electronic records, and electronic signatures in clinical investigations of foods, medical products, tobacco products, and new animal drugs. The goals of the draft guidance are to (1) update recommendations for applying and implementing data integrity and data security controls, including the use of audit trails and the protection of records in the current environment of electronic systems used in clinical investigations; (2) provide additional recommendations on the risk-based approach to validation of electronic systems described in the guidance for industry ''Part 11, Electronic Records; Electronic Signatures—Scope and Application'' (August 2003); and (3) facilitate the use of electronic systems, electronic records, and electronic signatures to improve the quality and efficiency of clinical investigations.

In the **Federal Register** of June 21, 2017 (82 FR 28277), FDA announced the availability of the draft guidance entitled ''Use of Electronic Records and Electronic Signatures in Clinical

Investigations Under 21 CFR part 11—Questions and Answers.'' FDA received numerous comments on the draft guidance, and those comments were considered as the guidance was revised. A summary of changes includes clarifying recommendations for the following: (1) using a risk-based approach for validation of electronic systems used in clinical investigations; (2) preparing for FDA inspections of sponsors and CROs when electronic systems are owned, controlled, or outsourced by the sponsors and CROs for use in clinical investigations; (3) implementing, maintaining, and retaining audit trail information; (4) determining the suitability of information technology (IT) service providers contracted by sponsors or other regulated entities to provide IT services in clinical investigations; and (5) implementing and applying data integrity controls, data security solutions, and electronic source data principles to digital health technology used in clinical investigations. This guidance revises the draft guidance issued in June 2017 and, when finalized, will supersede the guidance for industry entitled ''Computerized Systems Used in Clinical Investigations'' (May 2007).

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 ''Electronic Systems, Electronic Records, and Electronic Signatures in Clinical Investigations: Questions and Answers.'' 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 the OMB under the PRA. The collections of information in 21 CFR part 11 have been approved under OMB control number 0910–0303; the collections of information in 21 CFR part 56 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 511 have been approved under OMB control number 0910–0117; and the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/guidance, https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05362 Filed 3–15–23; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–D–0338]**

### Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act; 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 final guidance for industry entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' The guidance is intended to help industry better understand the definitions of ''suspect'' and ''illegitimate'' product as defined in the Drug Supply Chain Security Act (DSCSA). The guidance lays out FDA's current understanding of the following key terms used to define ''suspect'' and ''illegitimate'' product: ''counterfeit,'' ''diverted,'' ''stolen,'' ''fraudulent transaction,'' and ''unfit for distribution.'' The guidance finalizes the draft guidance entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act'' issued on June 4, 2021.

**DATES:** The announcement of the guidance is published in the **Federal Register** on March 16, 2023.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances 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–2018–D–0338 for ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act; Guidance for Industry; Availability.'' 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 this 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; or to Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, 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 guidance document.

**FOR FURTHER INFORMATION CONTACT:** Sarah Venti, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *drugtrackandtrace@fda.hhs.gov;* or Diane Maloney, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a guidance for industry entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' This guidance interprets the terms used in the definition of ''suspect product'' set forth in section 581(21) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee(21)) and the definition of ''illegitimate product'' set forth in section 581(8) of the FD&C Act to assist trading partners in meeting verification obligations (including notification) under section 582(b)(4), (c)(4), (d)(4), and (e)(4) (21 U.S.C. 360eee–1(b)(4), (c)(4), (d)(4), and (e)(4)), respectively.

This guidance is intended to help industry better understand the definitions of ''suspect'' and ''illegitimate'' product as defined in section 581 of the FD&C Act. The guidance lays out FDA's current understanding of the following key terms used to define ''suspect'' and ''illegitimate'' product in section 581 of FD&C Act: ''counterfeit,'' ''diverted,'' ''stolen,'' ''fraudulent transaction,'' and ''unfit for distribution.''

This guidance finalizes the draft guidance entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act'' issued on June 4, 2021 (86 FR 30056). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include: (1) clarifying the definition of ''diverted'' by revising the examples clarifying that there are other scenarios besides product dispensed to a patient that could result in diverted product; (2) clarifying FDA's expectations for how trading partners should handle unaccounted for product that is not immediately identified as stolen product; (3) expanding on the definition of ''fraudulent transaction'' to clarify how clerical errors or discrepancies in the product tracing information should be addressed; and (4) clarifying that the definition of ''unfit for distribution'' in this guidance applies only to the verification provisions of the DSCSA and to identifying suspect and illegitimate product. In addition, editorial changes were made to improve clarity.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' 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

FDA concludes that this guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05359 Filed 3–15–23; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2023–N–0722]**

### Fresenius Kabi USA, LLC, et al.; Withdrawal of Approval of Six Abbreviated New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is withdrawing approval of six abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

**DATES:** Approval is withdrawn as of April 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

| Application No. | Drug | Applicant |
|---|---|---|
| ANDA 065111 | Kanamycin Sulfate Injection, Equivalent to (EQ) 500 milligrams (mg) base/2 milliliters (mL) and EQ 1 gram (g) base/3 mL. | Fresenius Kabi USA, LLC, Three Corporate Dr., Lake Zurich, IL 60047. |
| ANDA 079107 | Levetiracetam Solution, 100 mg/mL | Tolmar, Inc., 701 Centre Ave., Fort Collins, CO 80526. |
| ANDA 201832 | Nimodipine Capsules, 30 mg | Sofgen Pharmaceuticals, LCC, 21500 Biscayne Blvd., Suite 600, Aventura, FL 33180. |
| ANDA 202418 | Lamivudine and Zidovudine Tablets, 150 mg; 300 mg. | Aurobindo Pharma USA, Inc., U.S. Agent for Aurobindo Pharma Ltd., 279 Princeton-Hightstown Rd., East Windsor, NJ 08520. |
| ANDA 202743 | Azelastine Hydrochloride (HCl), Metered Spray, 0.2055 mg/spray. | Padagis US LLC., U.S. Agent for Padagis Israel Pharmaceuticals Ltd. (formerly known as Perrigo Israel Pharmaceuticals Ltd.), 3940 Quebec Avenue North, Minneapolis, MN 55427. |
| ANDA 203937 | Fludeoxyglucose F18 Injection, 4–500 millicurie (mCi)/mL. | Hot Shots NM, LLC, DBA Midwest Positron Technology, LC, 2017 E Kimberly Rd., Suite C, Davenport IA 52807. |

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of April 17, 2023. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on April 17, 2023 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05360 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0583]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Radioactive Drug Research Committees

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements contained in regulations governing the use of radioactive drugs for basic informational research.

**DATES:** Either electronic or written comments on the collection of information must be submitted by May 15, 2023.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 15, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2010–N–0583 for ''Radioactive Drug Research Committees.'' 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:** Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Radioactive Drug Research Committees—21 CFR 361.1**

*OMB Control Number 0910–0053—Extension*

This information collection request supports regulations and associated Agency forms. Sections 201, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 355, and 371) establish provisions under which FDA issues regulations governing the use of radioactive drugs for basic scientific research. Specifically, section § 361.1 (21 CFR 361.1) sets forth specific regulations about establishing and composing radioactive drug research committees (RDRCs) and their role in approving and monitoring basic research studies using radiopharmaceuticals. No basic research study involving any administration of a radioactive drug to research subjects is permitted without the authorization of an FDA-approved RDRC (§ 361.1(d)(7)). The type of research that may be undertaken with a radiopharmaceutical drug must be intended to obtain basic information and not to carry out a clinical trial for safety or efficacy. The types of basic research permitted are specified in the regulations and include studies of metabolism, human physiology, pathophysiology, or biochemistry.

Section 361.1(c)(2) requires that each RDRC will select a chairman, who will sign all applications, minutes, and reports of the committee. Each committee will meet at least once each quarter in which research activity has been authorized or conducted. Minutes will be kept and will include the numerical results of votes on protocols involving use in human subjects. Under § 361.1(c)(3), each RDRC will submit an annual report to FDA. The annual report will include the names and qualifications of the members of, and of any consultants used by, the RDRC, using Form FDA 2914 (Report on Research Use of Radioactive Drugs—Membership Summary). The annual report will also include a summary of each study conducted during the preceding year, using Form FDA 2915 (Report on Research Use of Radioactive Drugs—Study Summary).

We developed the guidance document entitled ''Radioactive Drug Research Committee: Human Research Without An Investigational New Drug Application'' (August 2010), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/radioactive-drug-research-committee-human-research-without-investigational-new-drug-application,* which provides information to help

determine whether research studies may be conducted under an FDA-approved RDRC, or whether research studies must be conducted under an investigational new drug application. It also offers answers to frequently asked questions on conducting research with radioactive drugs, and provides information on the membership, functions, and reporting requirements of an RDRC approved by FDA. All Agency guidance documents are issued consistent with our good guidance practice regulations at 21 CFR 10.115.

Under § 361.1(d)(5), each investigator will obtain the proper consent required under the regulations. Each female research subject of childbearing potential must state in writing that she is not pregnant or, based on a pregnancy test, be confirmed as not pregnant.

Under § 361.1(d)(8), the investigator will immediately report to the RDRC all adverse effects associated with use of the drug, and the committee will then report to FDA all adverse reactions probably attributed to the use of the radioactive drug.

Section 361.1(f) sets forth labeling requirements for radioactive drugs. These requirements are not in the reporting burden estimate because they are information supplied by the Federal Government to the recipient for the purposes of disclosure to the public (5 CFR 1320.3(c)(2)).

Types of research studies not permitted under the regulations are also specified and include those intended for immediate therapeutic, diagnostic, or similar purposes or to determine the safety or effectiveness of the drug in humans for such purposes (*i.e.,* to carry out a clinical trial for safety or efficacy). These studies require filing of an investigational new drug application under 21 CFR part 312, and the associated information collections, are covered in OMB control number 0910–0014.

The primary purpose of this collection of information is to determine whether the research studies are being conducted in accordance with required regulations and that human subject safety is assured. If these studies were not reviewed, human subjects could be subjected to inappropriate radiation or pharmacologic risks. Respondents to this information collection are the chairperson or chairpersons of each individual RDRC, investigators, and participants in the studies. The burden estimates are based on our experience with these reporting and recordkeeping requirements and the number of submissions we received under the regulations over the past 3 years.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section and FDA form | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response (in hours) | Total hours |
|---|---|---|---|---|---|
| § 361.1(c)(3) reports and (c)(4) approval (Form FDA 2914: Membership Summary) [2]. | 56 | 1 | 56 | 1 | 56 |
| § 361.1(c)(3) reports (Form FDA 2915: Study Summary) [3] | 37 | 10 | 370 | 3 | 1,110 |
| § 361.1(d)(8) adverse events | 10 | 1 | 10 | 0.5 (30 minutes) | 5 |
| Total | | | 436 | | 1,171 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM094979.pdf.*
[3] *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM074720.pdf.*

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| 21 CFR section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping (in hours) | Total hours |
|---|---|---|---|---|---|
| § 361.1(c)(2) RDRC | 56 | 4 | 224 | 10 | 2,240 |
| § 361.1(d)(5) human research subjects | 37 | 10 | 370 | 0.75 (45 minutes) | 278 |
| Total | | | 594 | | 2,518 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have adjusted our estimate for the information collection to reflect an annual decrease of 703 hours and 158 responses since OMB's last approval. We attribute this adjustment to a decrease from 3.5 hours to 3 hours per response for public reporting burden for Form FDA–2915: Study Summary to match the burden hours reflected on the form. In addition, this adjustment is also attributable to the Agency receiving fewer submissions over the last few years.

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05357 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–0026]**

### Issuance of Priority Review Voucher; Rare Pediatric Disease Product

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that LAMZEDE (velmanase alfa-tycv), approved February 16, 2023, and manufactured by Chiesi Farmaceutici S.p.A., meets the criteria for a priority review voucher.

**FOR FURTHER INFORMATION CONTACT:** Cathryn Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1394, email: *Cathryn.Lee@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that LAMZEDE (velmanase alfa-tycv), manufactured by Chiesi Farmaceutici S.p.A., meets the criteria for a priority review voucher. LAMZEDE (velmanase alfa-tycv) injection is for the treatment of non-central nervous system manifestations of alpha-mannosidosis.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about LAMZEDE (velmanase alfa-tycv), go to the ''*Drugs@FDA*'' website at *http://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: March 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–05355 Filed 3–15–23; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency Information Collection Request; 60-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before May 15, 2023.

**ADDRESSES:** Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

**FOR FURTHER INFORMATION CONTACT:** When submitting comments or requesting information, please include the document identifier 0990–0473–60D and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov, PRA@HHS.gov,* or call (202) 795–7714 the Reports Clearance Officer.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Title of the Collection:* HHS Subpart C Certification Form.

*Type of Collection:* Revision.

*OMB No.:* 0990–0473.

*Abstract:* The Office for Human Research Protections (OHRP) is requesting a three-year approval on a 0revision of OMB No. 0990–0473, the HHS Subpart C Certification Form. The purpose of this form is to provide a simplified, standardized procedure for institutions to submit subpart C research certifications to OHRP in order to obtain authorization to include prisoners in HHS-conducted or supported human subjects research. The form also simplifies the internal process used by OHRP to review and record such certifications, resulting in faster processing while reducing unnecessary and burdensome staff time.

*Likely Respondents:* Institutions or Organizations operating Institutional Review Boards (IRBs) that have enrolled or are planning to enroll prisoners in human subjects research conducted or supported by HHS.

ANNUALIZED BURDEN HOUR TABLE

| Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|
| Subpart C Certification Form | 25 | 2 | 1.0 | 50 |
| Subpart C Certification Form | 5 | 3 | 1.0 | 15 |
| Total | | | | 65 |

**Sherrette A. Funn,**

*Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.*

[FR Doc. 2023–05345 Filed 3–15–23; 8:45 am]

**BILLING CODE 4150–36–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Sleep Disorders Research Advisory Board Sleep Disorders Research Advisory Board.

*Date:* April 6–7, 2023.

*Open:* April 06, 2023, 1:00 p.m. to 5:00 p.m.

*Agenda:* The purpose of this meeting is to update the Advisory Board and public stakeholders on the progress of sleep and circadian research activities across NIH, and the activities of Federal stakeholders and interested organizations.

*Place: Virtual-Teleconference, ZoomGov and In-Person.*

*Virtual:* The event is free and open to the public, however, registration is required. Please use this link to register: *https://nih.zoomgov.com/webinar/register/WN_NjI6hGOLQgmEGTNOe2zTzA.*

*In Person:* Two Rockledge Centre, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20817.

*Open:* April 07, 2023, 9:00 a.m. to 2:00 p.m.

*Agenda:* The purpose of this meeting is to update the Advisory Board and public stakeholders on the progress of sleep and circadian research activities across NIH, and

the activities of Federal stakeholders and interested organizations.

*Place: Virtual-Teleconference, ZoomGov and In-Person.*

*Virtual:* The event is free and open to the public, however, registration is required. Please use this link to register: *https://nih.zoomgov.com/webinar/register/WN_NjI6hGOLQgmEGTNOe2zTzA.*

*In Person:* Two Rockledge Centre, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20817.

*Contact Person:* Marishka Brown, Ph.D., SDRAB Executive Secretary, Director, National Center on Sleep Disorders Research, National Institutes of Health, National Heart, Lung, and Blood Institute, Division of Lung Diseases, 6705 Rockledge Drive, Suite 407B, Bethesda, MD 20892, 301–435–0199, *ncsdr@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

*Information is also available on the Institute's/Center's home page: www.nhlbi.nih.gov/meetings/index.htm,* where an agenda updates and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 13, 2023.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2023–05400 Filed 3–15–23; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Fiscal Year (FY) 2023 Notice of Supplemental Funding Opportunity

**AGENCY:** Substance Abuse and Mental Health Services Administration, Department of Health and Human Services (HHS).

**ACTION:** Notice of intent to award supplemental funding.

**SUMMARY:** This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) is supporting an administrative supplement (in scope of the parent award) up to $157,674,392 (total costs) available until the budget period end date (09/29/2023) to the 988 Suicide and Crisis Lifeline Cooperative Agreement recipient, Mental Health Association of New York City, Inc. (DBA Vibrant Emotional Health). This grant was funded in FY 2021 under the Cooperative Agreement for National Suicide Prevention Lifeline and Disaster Distress Helpline Cooperative Agreement, Notice of Funding Opportunity (NOFO), SM 21–005, with a project end date of September 2026. The supplemental funding will be used to maintain 988 operations and services, both at local levels and across all backup, chat, text, LGBTQ+ youth, Spanish language, and videophone based services. This funding will ensure continuation of all 988 services and supports.

**FOR FURTHER INFORMATION CONTACT:** James Wright, LPC, Division Director, Crisis Operations, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, MD 20857, telephone 240–276–1615; email: *james.wright@samhsa.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Funding Opportunity Title:* FY 2021 988 Suicide and Crisis Lifeline Cooperative Agreement SM–21–005.

*Assistance Listing Number:* 93.243.

*Authority:* Section 520E–3 [42 U.S.C. 290bb–36c] of the Public Health Service Act, as amended.

*Justification:* The 988 Suicide and Crisis Lifeline Cooperative Agreement (988 Lifeline) manages, enhances, and strengthens the 988 Lifeline network that routes individuals in the United States to a network of certified crisis centers that links to local emergency, mental health, and social services resources. The 988 Lifeline is a 24/7 confidential suicide and crisis hotline providing phone, chat, and text services for anyone in the United States experiencing a suicidal crisis or in emotional distress. This supplemental funding will ensure continuation of all active services, expand access for high-risk populations, improve access to services, and infrastructure support to ensure stability, safety, privacy, and connection of service. This is not a formal request for application. Assistance will only be provided to the 988 Suicide and Crisis Lifeline Cooperative Agreement recipient, Mental Health Association of New York City, Inc. (DBA Vibrant Emotional Health). Since 2005, Vibrant Emotional Health has provided oversight and management of the Suicide Prevention Lifeline and its local call centers, backup centers, Spanish network, and chat/text functions with a network of over 200 centers in all fifty states. Vibrant Emotional Health has the infrastructure, experience, and national reach to work with the backup centers, language services, and chat/text organizations to address the increased contact volumes expected in 2023 and beyond. With the transition to 988 accomplished, greater services, such as expanding access to the local and national Lifeline backup centers, language services, system evaluation and data reporting, and access to specialized care for populations to be known at higher risk for suicide, are required to fully realize the potential impact to 988 contact service. Through this supplemental funding, SAMHSA and Vibrant can expand capacity to address increased call, chat and text volume following 988 implementation, further develop connection and support for individuals at higher risk of suicide and strengthen the efficiency and customer experience of the network through unified technology.

**Alicia Broadus,**

*Public Health Advisor.*

[FR Doc. 2023–05408 Filed 3–15–23; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2023–0014]**

### Homeland Security Advisory Council

**AGENCY:** Office of Partnership and Engagement, Department of Homeland Security (DHS).

**ACTION:** Committee management; notice of committee charter renewal.

**SUMMARY:** The Secretary of Homeland Security has determined that the renewal of the Homeland Security Advisory Council is necessary and in the public interest. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

**DATES:** The committee's charter is effective March 11, 2023 and expires March 11, 2025.

**ADDRESSES:** If you desire to submit comments on this action, they must be submitted by April 10, 2023. Comments must be identified by DHS Docket Number (DHS–2023–0014) and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: HSAC@hq.dhs.gov.* Include the Docket Number (DHS–2023–0014) in the subject line of the message.
- *Phone:* (202) 891–2876.
- *Mail:* Homeland Security Advisory Council, Department of Homeland Security, Mail Stop 0385, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528–0385.

*Instructions:* All submissions must include the words ''Department of Homeland Security'' and DHS–2023–0014, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy & Security Notice and User Notice on the homepage of *www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rebecca Sternhell, Executive Director, Homeland Security Advisory Council, Department of Homeland Security, Mail Stop 0385, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20598–0655, by telephone (202) 891–2876 or by email to *hsac@hq.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose and Objective:* Under the authority of 6 U.S.C. 451, this charter renewed the Homeland Security Advisory Council as a discretionary committee, which shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. ch. 10. The Homeland Security Advisory Council (HSAC) was established in April 2003, under the authority of Title 6 United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. ch. 10. This discretionary committee provides nonpartisan and organizationally independent, strategic advice to the Secretary of Homeland Security on matters related to homeland security.

**Rebecca K. Sternhell,**

*Executive Director, Homeland Security Advisory Council.*

[FR Doc. 2023–05392 Filed 3–15–23; 8:45 am]

BILLING CODE 9112–FN–P

## INTER-AMERICAN FOUNDATION

### 60-Day Notice for the "IAF Grant Application Concept Note"

**AGENCY:** Inter-American Foundation.

**ACTION:** Notice.

**SUMMARY:** The Inter-American Foundation (IAF), as part of its continuing efforts 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. This program helps ensure that requested data is 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, the IAF is soliciting comments concerning the information collection of the grant application concept note. The purpose of this form is to reduce the time needed to submit and review a proposal for IAF grant funds. Proponents spend a lot of time completing a proposal for grant funds, and IAF Foundation Representatives spend a lot of time reviewing proposals. Internal staff members are not able to read through all the proposals received each year as a result of the volume of submissions and the length of the materials. Given the high proportion of proposals that do not progress to the ''pre-selected'' phase of the review process, there is an opportunity to streamline the initial application requirements to only require the key information a Foundation Representative needs to decide whether or not a project is viable for IAF to fund.

**DATES:** Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

**ADDRESSES:** Send comments to Natalia Mandrus, Inter-American Foundation, via email to *nmandrus@iaf.gov.*

**SUPPLEMENTARY INFORMATION:** The IAF is particularly interested in comments which:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Can help the agency 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.

**Nicole Stinson,**

*Associate General Counsel.*

[FR Doc. 2023–05394 Filed 3–15–23; 8:45 am]

BILLING CODE 7025–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[DOI–2023–0001; FF10T03000 190 FXGO16601025020]**

### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Notice of modified systems of records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior (DOI) is issuing a public notice of its intent to modify all U.S. Fish and Wildlife Service (FWS) system of records notices (SORNs). FWS is modifying its 11 system of records to add 2 breach routine uses to authorize the limited disclosure of records related to a suspected or confirmed breach of personally identifiable information (PII) within the DOI or assist another agency respond to their breach in accordance with Office of Management and Budget (OMB) Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information.*

**DATES:** This notice will be effective upon publication. New or modified routine uses will be effective April 17, 2023. Submit comments on or before April 17, 2023.

**ADDRESSES:** You may send comments identified by docket number [DOI–2023–0001] by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for sending comments.

• *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2023–0001] in the subject line of the message.

• *U.S. Mail or Hand Delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

*Instructions:* All submissions received must include the agency name and docket number [DOI–2023–0001]. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Schmidt, Associate Privacy Officer, U.S. Fish and Wildlife Service, 5725 Leesburg Pike MS–IRTM, Falls Church, VA 22041, *FWS_Privacy@fws.gov* or (703) 358–2291.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On May 22, 2007, OMB issued Memorandum M–07–16, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information,* which required Federal agencies to publish a routine use for their systems of records specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a breach of personally identifiable information. FWS published a notice in the **Federal Register** in 2008 to modify all FWS system of records by adding a routine use in their ''ROUTINE USES'' section to address the limited disclosure of records related to a suspected or confirmed breach within DOI consistent with OMB M–07–16. In 2015, FWS published a modified system of records notice for the INTERIOR/FWS–26, Migratory Bird and Harvest Survey, system of records, which erroneously omitted the breach routine use required by OMB M–07–16.

On January 3, 2017, OMB issued Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information,* which rescinded and replaced OMB M–07–16. This memorandum requires agencies to publish two routine uses for their systems of records specifically applying to the disclosure of information in connection with response and remedial efforts in the event of a breach of PII. Specifically, OMB M–17–12 requires that agency Senior Agency Officials for Privacy ensure that their agency SORNs include routine uses for the disclosure of information necessary to respond to that agency's breach of PII. Additionally, OMB M–17–12 requires that a breach routine use be added to all agency SORNs to ensure that agencies are able to disclose records in their systems of records to another Federal agency that may reasonably be needed by that agency to respond to a breach of PII.

FWS is publishing this notice to modify the SORNs identified below to revise the existing breach routine use to address the limited disclosure of records related to a suspected or confirmed breach within DOI and to correct the omission of the original breach routine use in the INTERIOR/FWS–26, Migratory Birds and Harvesting Survey, SORN published in 2015. This notice also adds a new breach routine use for the limited disclosure of records that may reasonably be needed by another agency to respond to a breach in accordance with OMB M–17–12. These modifications will ensure FWS can respond to a suspected or confirmed breach within DOI and assist other agencies in responding to a confirmed or suspected breach, as appropriate, pursuant to OMB M–17–12. Moving forward all new and significantly modified SORNs published by FWS will include the breach response routine uses consistent with the requirements outlined in OMB M–17–12. This notice hereby adds the two routine uses required by OMB M–17–12 to the system notices listed below.

| | | |
|---|---|---|
| 1 | INTERIOR/FWS–4, Tort Claims Records | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 2 | INTERIOR/FWS–5, National Wildlife Refuge Special Use Permits. | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 3 | INTERIOR/FWS–7, Water Development Project and/or Effluent Discharge Permit Application Review. | 46 FR 18367 (March 24, 1981); modification published 73 FR 31877 (June 4, 2008). |
| 4 | INTERIOR/FWS–10, National Fish Hatchery Special Use Permits. | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 5 | INTERIOR/FWS–11, Real Property Records | 71 FR 68635 (November 27, 2006); modification published 73 FR 31877 (June 4, 2008). |
| 6 | INTERIOR/FWS–20, Investigative Case File System | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 7 | INTERIOR/FWS–21, Permits System | 68 FR 52610 (September 4, 2003); modification published 73 FR 31877 (June 4, 2008). |
| 8 | INTERIOR/FWS–22, U.S. Deputy Game Warden | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 9 | INTERIOR/FWS–26, Migratory Bird Population and Harvest Surveys. | 80 FR 27183 (May 12, 2015). |
| 10 | INTERIOR/FWS–27, Correspondence Control System | 64 FR 29055 (May 28, 1999); modification published 73 FR 31877 (June 4, 2008). |
| 11 | INTERIOR/FWS–30, Marine Mammals Management, Marking, Tagging and Reporting Program. | 58 FR 41803 (August 5, 1993); modification published 73 FR 31877 (June 4, 2008). |

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To appropriate agencies, entities, and persons when: (1) DOI suspects or has confirmed that there has been a breach of the system of records; (2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or

remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**Teri Barnett,**

*Departmental Privacy Officer, Department of the Interior.*

[FR Doc. 2023–05376 Filed 3–15–23; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

**[GX23EN05ESBJF00]**

### Notice To Reopen the Advisory Council for Climate Adaptation Science Call for Nominations

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Notice to reopen a call for nominations.

**SUMMARY:** A request for nominations was published by the Department of the Interior in the **Federal Register** on December 2, 2022, for membership on the Advisory Council on Climate Adaptation Science (Council). The nomination period ended on January 16, 2023. This notice reopens the nomination period until April 17, 2023.

**DATES:** The nomination period for the notice published on December 2, 2022, at 87 FR 74164, is reopened. Nominations for the vacant positions are due on or before April 17, 2023.

**ADDRESSES:** Please address nomination letters to the National Climate Adaptation Science Center (NCASC) at *casc@usgs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Shawn Carter by email at *scarter@usgs.gov* or by telephone at (571) 314–2788. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** The Secretary of the Interior and the Director of the U.S. Geological Survey seek nominations for membership on the Council. The Council reports to the Secretary of the Interior and advises and provides recommendations regarding (a) the contents of a national strategy identifying key climate-adaptation science priorities to advance the management of natural- and cultural resources in the face of climate change; (b) the nature, extent, and quality of relations with and engagement of key partners at the regional Climate Adaptation Science Center (CASC) level; (c) the nature and effectiveness of mechanisms to effectively deliver science information and tools and build capacity to aid the natural- and cultural resource-management community and decision-makers in adapting to a changing climate; (d) mechanisms that may be employed by the NCASC to ensure high standards of scientific quality and integrity in its products and to review and evaluate the performance of individual CASCs in advance of opportunities to re-compete expiring agreements; and (e) the integration of equity, particularly for historically underserved communities, in the operation of the NCASC and regional CASCs. On December 2, 2022, the original call for nominations was published in the **Federal Register** (87 FR 74164) with a 30-day nomination period ending January 16, 2023. This notice provides additional time for nominations (see **DATES,** above). For more information on the Council's duties, member terms, vacancies to fill, the nomination method, and eligibility, see the December 2, 2022, notice (87 FR 74164).

*Authority:* 5 U.S.C. Appendix 10.

**Shawn Carter,**

*National Climate Adaptation Science Center, U.S. Geological Survey.*

[FR Doc. 2023–05344 Filed 3–15–23; 8:45 am]

**BILLING CODE 4338–11–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[BLM_CA_FRN_MO4500169857]**

### Notice of Availability of the Record of Decision for the Whitewater River Groundwater Replenishment Facility, Riverside County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared the Record of Decision (ROD) for the Whitewater River Groundwater Replenishment Facility located in the Palm Springs-South Coast Field Office. The ROD constitutes the decision of the BLM.

**DATES:** The Palm Springs-South Coast Field Manager signed the ROD on March 14, 2023. Issuance of the ROD initiates a 30-day appeal period ending April 17, 2023.

**ADDRESSES:** The ROD is available via the internet at *https://go.usa.gov/x6KsM.* Copies of the Whitewater River Groundwater Replenishment Facility ROD are available at the Palm Springs South Coast Field Office at 1201 Bird Center Drive, Palm Springs, CA 92262. Appeals must be submitted to this address, in accordance with the regulations contained in 43 CFR part 4.

**FOR FURTHER INFORMATION CONTACT:** Brandon G. Anderson, Assistant District Manager, telephone: (760) 422–9120; email: *bganderson@blm.gov;* address Bureau of Land Management, 1201 Bird Center Drive, Palm Springs, CA 92262. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** The Coachella Valley Water District (CVWD) applied for a right-of-way (ROW) grant from the BLM for its existing groundwater replenishment facility in North Palm Springs that is partially located on public lands managed by the BLM. The BLM issued the Final Environmental Impact Statement on August 12, 2022. After careful consideration of the environmental impacts, the BLM selects Alternative 1: Proposed Action (Selected Alternative). Consistent with 43 CFR 2801.10, this decision remains in effect pending appeal. The Selected Alternative would issue CVWD a ROW grant for existing water control berms, intake structures, conveyance structures, and 19 infiltration ponds over approximately 690 acres of BLM-managed public lands. The facility also includes 1,480 acres of lands held by CVWD. The Selected Alternative increases water recharge volumes to 511,000-acre feet per year of water, which represents the full annual capacity of the facility.

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR part 4. If an appeal is filed, your notice of appeal must be filed as noted in the **ADDRESSES** section within 30 days from receipt of this decision. The

appellant has the burden of showing that the decision appealed from is in error. Copies of the notice of appeal and any associated petition for a stay must also be submitted to each party named in this decision, to the IBLA, and to the Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, E–1712, Sacramento, CA 95825 (see 43 CFR 4.413) at the same time the original documents are filed with this office. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

(Authority: 40 CFR 1506.6)

**Karen E. Mouritsen,**

*BLM California State Director.*

[FR Doc. 2023–05381 Filed 3–15–23; 8:45 am]

**BILLING CODE 4331–14–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 23–020]**

### Name of Information Collection: NASA Website Customer Satisfaction Survey

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of new information collection.

**SUMMARY:** The National Aeronautics and Space Administration, 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.

**DATES:** Comments are due by May 15, 2023.

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bill Edwards-Bodmer, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 757–864–3292, or *b.edwards-bodmer@nasa.gov.*

**SUPPLEMENTARY INFORMATION:**

*I. Abstract:* This collection of information supports the National Aeronautics and Space Act of 1958, as amended, specifically to improve how NASA disseminates information about its programs to ''widest extent practicable.'' NASA offers a small percentage of its web visitors a chance to take a survey that asks for the feedback on the site's design, navigation and other elements. NASA has used this data to inform ongoing improvements to the site, including major redesigns in 2003, 2007, 2013 and 2015. The data has then been used to track visitors' assessments of how successful each redesign was. Without this data, NASA wouldn't have known how to focus its improvement efforts or how successful they had been.

*II. Methods of Collection:* NASA has purchased the services of Verint, now the provider of the survey, which NASA has used for 20 years. Verint's product offers 0.1 percent of all visitors the opportunity to take the survey. Users may decline to take the survey entirely or to answer specific questions. If they accept, they are asked approximately 30 questions about the site's design, navigation, performance and other aspects. Once the survey is submitted, it is collated and analyzed. Verint provides NASA with an aggregated view of the data as well as individual responses to some questions. The user is never asked for identifying information, though some general demographic data is requested (education level, age range, self-identified audience segment, *e.g.,* ''general public''). Users can decline to take the survey by closing the computer window in which it is offered.

*III. Data:*

*Title:* NASA website Customer Satisfaction.

*OMB Number:* 2700–xxxx.

*Type of review:* Notice of new information collection.

*Affected Public:* Individuals.

*Estimated Annual Number of Activities:* 50,000.

*Estimated Number of Respondents per Activity:* maximum of 1.

*Annual Responses:* 10,000.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 2,500 hours.

*Estimated Total Annual Cost:* $120,000.

*IV. Request for Comments:*

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**William Edwards-Bodmer,**

*NASA PRA Clearance Officer.*

[FR Doc. 2023–05371 Filed 3–15–23; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meeting of Humanities Panel

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Endowment for the Humanities (NEH) will hold twenty-one meetings, by videoconference, of the Humanities Panel, a federal advisory committee, during April 2023. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

**DATES:** See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5 p.m. on the dates specified below.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. 10), notice is hereby given of the following meetings:

1. Date: April 3, 2023

This video meeting will discuss applications on the topic of Pedagogy,

for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

2. Date: April 4, 2023

This video meeting will discuss applications on the topic of Scholarly Communications, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

3. Date: April 4, 2023

This video meeting will discuss applications on the topics of Philosophy and Religious Studies, for the Institutes for Higher Education Faculty grant program, submitted to the Division of Education Programs.

4. Date: April 4, 2023

This video meeting will discuss applications on the topic of U.S. History (after Civil War), for the Institutes for K–12 Educators grant program, submitted to the Division of Education Programs.

5. Date: April 4, 2023

This video meeting will discuss applications on the topics of Archaeology, Anthropology, and Native American, for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

6. Date: April 4, 2023

This video meeting will discuss applications on the topics of Teaching and Public Engagement, for the Dangers and Opportunities of Technology: Perspectives from the Humanities (Collaborative) grant program, submitted to the Office of Digital Humanities.

7. Date: April 5, 2023

This video meeting will discuss applications on the topics of Native American and Asian American History and Culture, for the Landmarks of American History and Culture grant program, submitted to the Division of Education Programs.

8. Date: April 5, 2023

This video meeting will discuss applications on the topics of Geography and World Language, for the Institutes for K–12 Educators grant program, submitted to the Division of Education Programs.

9. Date: April 5, 2023

This video meeting will discuss applications on the topic of History (State, Local, and Regional), for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

10. Date: April 6, 2023

This video meeting will discuss applications on the topic of History (Historic Sites and Houses), for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

11. Date: April 6, 2023

This video meeting will discuss applications on the topic of Geographies, for the Institutes for Higher Education Faculty grant program, submitted to the Division of Education Programs.

12. Date: April 6, 2023

This video meeting will discuss applications on the topics of Place, Migration, and Public History, for the Landmarks of American History and Culture grant program, submitted to the Division of Education Programs.

13. Date: April 7, 2023

This video meeting will discuss applications on the topic of History (National and Special Subject), for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

14. Date: April 11, 2023

This video meeting will discuss applications on the topic of Public Humanities, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

15. Date: April 11, 2023

This video meeting will discuss applications on the topic of Cultural History, for the Media Projects Production grant program, submitted to the Division of Public Programs.

16. Date: April 12, 2023

This video meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

17. Date: April 13, 2023

This video meeting will discuss applications on the topics of Arts and Culture, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

18. Date: April 14, 2023

This video meeting will discuss applications on the topic of Arts, for the Public Humanities Projects: Humanities Discussions Grants program, submitted to the Division of Public Programs.

19. Date: April 17, 2023

This video meeting will discuss applications for the Institutes for Advanced Topics in the Digital Humanities grant program, submitted to the Office of Digital Humanities.

20. Date: April 18, 2023

This video meeting will discuss applications on the topic of Cultural History, for the Media Projects Production grant program, submitted to the Division of Public Programs.

21. Date: April 19, 2023

This video meeting will discuss applications on the topics of History and Civics, for the Public Humanities Projects: Humanities Discussions Grants program, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: March 10, 2023.

**Jessica Graves,**

*Legal Administrative Specialist, National Endowment for the Humanities.*

[FR Doc. 2023–05343 Filed 3–15–23; 8:45 am]

BILLING CODE 7536–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2022–0190]**

## Comment on Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Response to comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received a public comment from Energy*Solutions* to the draft report entitled, NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' Energy*Solutions'* comment identified a cost escalation error that it had generated and used to develop unit disposal costs for the Clive, Utah, low-level waste disposal facility.

Energy*Solutions* subsequently submitted this information in July 2022, for the preparation of draft NUREG–1307, Revision 19. The erroneous unit disposal cost information was published in the draft and final NUREG–1307, Revision 19. The Energy*Solutions'* comment provided revised disposal cost information that would impact the waste burial escalation factors presented in NUREG–1307, Revision 19.

**DATES:** NUREG–1307, Revision 19, is available as of February 17, 2023.

**ADDRESSES:** Please refer to NRC–2022–0190 when contacting the NRC about the availability of information regarding this notice. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0190.
- 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.* NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' is available in ADAMS under Accession No. ML23044A207.
- NRC's PDR: You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Emil Tabakov, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6814, email: *Emil.Tabakov@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Discussion

The NRC published a notice in the **Federal Register** on November 29, 2022 (87 FR 73345) requesting public comment on draft NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' The public comment period on the draft NUREG closed on December 29, 2022. On February 17, 2023 (88 FR 10388) the NRC published the final NUREG–1307, Revision 19 (ADAMS Accession No. ML23044A207). The NRC had received two public comments (the February 17, 2023, **Federal Register** notice stated that four comments had been received), however, only one comment and the NRC's response to that comment was included in the comment resolution matrix available in ADAMS under Accession No. ML23038A239.

The NRC acknowledges that Energy*Solutions* submitted a notification (ADAMS Accession No. ML23010A223), dated December 28, 2022, characterized as a comment, on the draft NUREG. Energy*Solutions* communicated that it had identified errors in its cost escalation, resulting in disposal unit rate cost data that required revisions. The disposal unit rate cost data were first submitted in July 2022 for preparation of the draft NUREG. Energy*Solutions'* notification states ''[a]n error in applying cost escalation occurred with the disposal unit rates provided in response to NUREG–1307 Rev 19 survey for non-compact disposal rates.'' However, the staff recognized that revised disposal unit rate cost information provided by Energy*Solutions* in its notification was received too late to be evaluated and considered for inclusion in the development and issuance of the final NUREG–1307, Revision 19. The NRC staff determined it was not possible to make the conforming changes to Revision 19 without causing an undue delay in the publication of the NUREG–1307, Revision 19. A delay in publication would have negatively affected licensees required to submit decommissioning funding assurance status reports by March 31, 2023. Hence, the NRC will not reissue NUREG–1307, Revision 19 for this reporting period. However, NRC staff will consider revised data provided by Energy*Solutions,* on a case-by-case basis, when conducting its review of decommissioning funding assurance status reports submitted by licensees during the 2023 reporting period. A revised comment resolution matrix addressing the two comments received during the public comment period is available at ADAMS Accession No. ML23067A083.

## II. Additional Information

Pursuant to section 50.75 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Reporting and Recordkeeping for Decommissioning Planning,'' the NRC requires nuclear power reactor licensees to adjust annually, in current year dollars, their estimate of the cost to decommission their plants. The annual updates are part of the process for providing reasonable assurance that adequate funds for decommissioning will be available when needed. Every two years, licensees report this information, along with other decommissioning funding assurance information, to the NRC for review.

Revision 19 of NUREG–1307, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' modifies Revision 18 to this report issued in January 2021 (ADAMS Accession No. ML21027A302) and incorporates updates to the adjustment factor, through changes to the labor, energy, and waste burial escalation factors, of the NRC minimum decommissioning fund formula. Based on revised low-level waste burial factors presented in the report and increases in labor and energy rates, the minimum decommissioning fund formula amounts calculated by all operating power reactor licensees likely will reflect moderate to more substantial increases when compared to those previously reported by licensees in 2021.

Dated: March 10, 2023.

For the Nuclear Regulatory Commission.

**Frederick R. Miller,**

*Chief, Financial Assessment Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2023–05347 Filed 3–15–23; 8:45 am]

**BILLING CODE 7590–01–P**

# OFFICE OF PERSONNEL MANAGEMENT

## Privacy Act of 1974; System of Records—OPM/Internal-23 Financial Management Records

**AGENCY:** U.S. Office of Personnel Management, Office of the Chief Financial Officer.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Office of Personnel Management (OPM) proposes to modify and republish its existing system of records titled ''OPM/Internal-23 Financial Management Records.'' This system of records contains financial records that OPM collects, maintains, and uses to manage its critical financial responsibilities. This

modified system of records will be included in OPM's inventory of record systems.

**DATES:** Please submit comments on or before April 17, 2023. This modified system is applicable upon publication in today's **Federal Register**.

**ADDRESSES:** You may submit written comments via the Federal Rulemaking Portal: *http://www.regulations.gov.* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: Erica Roach, Senior Program Manager, Office of the Chief Financial Officer, Office of Personnel Management, at *OPMFinApps@opm.gov.* For privacy questions, please contact Kellie Cosgrove Riley, Chief Privacy Officer, Office of Personnel Management, at *privacy@opm.gov.*

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is modifying and republishing the OPM/Internal-23 Financial Management Records system of records in order to effectuate some administrative changes and provide additional clarity and transparency regarding its financial records. OPM's Office of the Chief Financial Officer (OCFO) uses the records in this system of records to support its financial management obligations and successfully implement OPM OCFO's internal and external budget and finance responsibilities.

These records are a comprehensive source of financial, budget, and performance information for OPM. They include records pertaining to purchasing, accounts receivables, accounts payable, disbursements, and other budget activities. The records are used for billing and collection, project costing, retirement, health and life insurance contributions and collections, and funds control, as well as to update budgets, financial plans, and the general ledger. The records include those that are used to support the acquisition management lifecycle, from requisitioning through source selection, award, post-award management, blanket purchase agreements, interagency agreements, and closeout. The records are also critical to required financial auditing and reporting requirements.

This system of records does not include those records used to administer OPM's pay, leave, and travel requirements or the administration of the fare subsidy program, which are included in the OPM Internal-5 Pay, Leave, and Travel system of records. It also does not include records that are used to enable travel service providers under contract to the Federal Government to authorize, issue, or account for travel and travel reimbursements provided to individuals on official Federal Government business, which are covered under GSA/GOVT–4 Contracted Travel Services Program, 74 FR 26700 (June 3, 2009), and GSA/GOVT–4. Contracted Travel Services Program, 74 FR 28048 (June 12, 2009).

OPM is modifying this system of records notice to:

(1) Name the agency's Chief Financial Officer as the System Manager.

(2) Update the Categories of Records to clearly include records related to retirement benefits and health and life insurance and to add account claim number and the Unique Entity Identity (UEI), which replaces the DUNS number in the financial records.

(3) Update the Purpose section to clearly address the collection of records related to the management of financial records related to the retirement and health and life insurance programs.

(4) Update the Authorities to include those attendant to the retirement and health and life insurance programs.

(5) Add an additional location to the System Location section to reflect the location of records subject to an inter-agency agreement with the Department of Treasury.

(6) Update the Records Source Categories to include the Department of Labor, which provides financial records to OPM relevant to workers' compensation cases.

OPM provided a report of this modified system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016. OPM will include this system in its inventory of record systems.

U.S. Office of Personnel Management.

**Stephen Hickman,**

*Federal Register Liaison.*

**SYSTEM NAME AND NUMBER:**

Financial Management Records, OPM/Internal-23.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

The Office of the Chief Financial Officer, Office of Personnel Management is responsible for the records in this system of records. Records are located at 1900 E Street NW, Washington, DC; pursuant to an inter-agency agreement with the Department of Transportation, Federal Aviation Authority, Enterprise Resource Center, in Oklahoma City, Oklahoma; and, pursuant to an inter-agency agreement with the Department of Treasury, Bureau of the Fiscal Service (Fiscal Service) Administrative Resource Center (ARC), in Parkersburg, West Virginia.

**SYSTEM MANAGER(S):**

Chief Financial Officer, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415–1100.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. Title 31, Subtitles II and III; Public Law 101–576; Public Law 104–208; 5 U.S.C. 8334 (CSRS retirement); 5 U.S.C. 8422 and 8423 (FERS retirement); 5 U.S.C. 8906 (health), 5 U.S.C. 8708 (life); 5 CFR 831.111 (CSRS retirement); 5 CFR 841 Subpart D and Subpart E (FERS retirement); 5 CFR 890.501 (health); 5 CFR 870 Subpart D (life); OMB Circular A–123; OMB Memorandum 16–11; OMB Memorandum 13–08, OMB Memorandum M–19–16, Executive Order 9397, as amended by Executive Order 13478.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system of records is to permit OPM to collect and maintain records to administer its financial management responsibilities. This includes conducting all activities related to accounts receivable and accounts payable, budgeting, purchasing, acquisitions, reimbursement, settlements, and debt collections for OPM. It also includes Trust Funds financial management responsibilities in support of the Federal retirement and health and life insurance benefits programs. The records in this system of records are also used to meet financial auditing and reporting requirements, both within OPM and external to OPM, such as to other Federal and private sector entities

as required and necessary in accordance with existing laws and regulations; and to support the acquisition management lifecycle, from requisitioning through source selection, award, post award management, blanket purchase agreements, interagency agreements, and closeout.

**CATEGORIES OF RECORDS:**

a. Name,
b. Social Security number,
c. Bank account information,
d. Credit card number,
e. Data Universal Numbering System (DUNS) number,
f. Unique Entity Identifier (UEI),
g. Account claim number,
h. Employee identification number,
i. Tax identification number,
j. addresses and other general contact information, such as phone numbers, facsimile numbers, and email addresses,
k. records of expenses, such as bills, receipts,
l. records of payments,
m. invoices, and
n. any other record necessary to document and make payment for a financial obligation owed to or from OPM.

Records in this system are subject to the Privacy Act only to the extent, if any, they are about an individual within the meaning of the Act, and not if they are about a business or other non-individual.

**RECORD SOURCE CATEGORIES:**

Records are obtained from individuals to whom OPM has a financial obligation, individuals who are indebted to OPM, OPM program offices, the Department of the Treasury, the Department of Labor, and the General Services Administration.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, an adjudicative body, or an administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding and one of the following is a party to the litigation or has an interest in such litigation: (1) OPM, or any component thereof; (2) Any employee or former employee of OPM in his or her official capacity; (3) Any employee or former employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; (4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the OPM General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records; (2) OPM has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for OPM when OPM determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to OPM employees.

h. To an external auditor for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

i. To the Equal Employment Opportunity Commission, the Merit Systems Protection Board, the Federal Labor Relations Authority, or other person or entity responsible for the administration of the Federal Labor Management Program, for the purpose of processing any corrective actions, presiding over grievances, or conducting administrative hearings or appeals, or if needed in the performance of similar authorized duties.

j. To the United States Department of the Treasury to verify eligibility for payment and to effect disbursement of authorized payments.

k. To the United States Department of the Treasury in order to identify programs and activities susceptible to improper payments in accordance with the Improper Payment Information Act of 2002 and the Improper Payments Elimination and Recovery Act of 2010.

l. To the General Service Administration's Federal Procurement Data System, a central repository for statistical information on Government contracting, information pertaining to OPM's acquisition activities for the purpose of providing public access to Government-wide data about agency contract actions.

m. To a Federal, state, or local agency for the purpose of adjudicating an individual's eligibility for a benefit or for any other legally mandated purpose in accordance with its authorizing statute or regulation where an approved Computer Matching Agreement or other information sharing agreement is in place between OPM and the agency.

n. To another Federal agency to obtain financial management services for OPM under a cross-servicing or inter-agency agreement, including for budgeting, purchasing, procurement, reimbursement, reporting, and collection functions.

o. To the Department of Justice, another Federal agency, or a debt collection agency for any purpose related to collecting a debt owed to the Federal government.

p. To consumer reporting agencies, as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), pursuant to 5 U.S.C. 552a(b)(12) and in accordance with 31 U.S.C. 3711(e).

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

The records may be retrieved by name, DUNs, UEIs, Social Security number, tax identification number, claim number, or other personal identifiers available in this system of records.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

The records in this system of records are retained and disposed of in accordance with General Records Schedule 1.1. The record schedule requires that the records be destroyed six years after final payment or cancellation, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system of records are protected from unauthorized access and misuse through various administrative, technical and physical security measures. OPM's security measures are in compliance with the Federal Information Security Modernization Act (Pub. L. 113–283), associated Office of Management and Budget policies, and applicable standards and guidance from the National Institute of Standards and Technology. Strict controls have been imposed to minimize the risk of compromising the information that is stored. Access to the paper and electronic records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:**

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Office of Personnel Management, Office of Privacy and Information Management—FOIA, 1900 E Street NW, Washington, DC 20415–7900 or by emailing *foia@opm.gov.*

Individuals must furnish the following information for their records to be located:

1. Full name.
2. Social Security number or Tax identification number.
3. Claim number, where applicable.
4. The type of information requested.
5. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of records about them should write to the Office of Personnel Management, Office of Privacy and Information Management—FOIA, 1900 E Street NW, Washington, DC 20415–7900, ATTN: OPM CFO; or by emailing *foia@opm.gov.* Requests for amendment of records should include the words ''PRIVACY ACT AMENDMENT REQUEST'' in capital letters at the top of the request letter or in the subject line of the email. Individuals must furnish the following information in writing for their records to be located:

1. Full name.
2. Social Security number or Tax identification number.
3. Claim number, if applicable.
4. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

**NOTIFICATION PROCEDURES:**

See ''Record Access Procedure.''

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

86 FR 23441 (May 3, 2021).

[FR Doc. 2023–05346 Filed 3–15–23; 8:45 am]

BILLING CODE 6325–67–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–97108; File No. SR–CboeBZX–2023–020]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fee Schedule

March 10, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2023, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'' or ''BZX Equities'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''BZX Equities'') as follows: (1) adopt a new Step-Up Tier and renumber the remaining tiers; and (2) adopt a new Non-Displayed Step-Up Tier. The Exchange proposes to implement the proposed change to its fee schedule on March 6, 2023.[3]

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on March 1, 2023 (SR–CboeBZX–2023–017). On March 6, 2023, the Exchange withdrew that filing and submitted this proposal.

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,[4] 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 credits to Members that add liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity.[5] For orders in securities priced below $1.00, the Exchange does not provide a rebate or assess a fee for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity.[6] 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.

Step-Up Tiers

Pursuant to footnote 2 of the Fee Schedule, the Exchange currently offers Step Up Tiers (tiers 1 through 3) that provide Members an opportunity to receive an enhanced rebate from the standard rebate for liquidity adding orders that yield fee codes B,[7] V,[8] and Y[9] where they increase their relative liquidity each month over a predetermined baseline. Specifically, the Tiers are as follows:

- Tier 1 offers an enhanced rebate of $0.0032 per share for qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where (1) MPID has a Step-Up Add TCV[10] from May 2019 ≥0.10%; and (2) MPID has an ADV[11] ≥0.50% of the TCV.
- Tier 2 offers an enhanced rebate of $0.0032 per share for qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where (1) Member has a Step-Up ADAV[12] from January 2022 ≥10,000,000 or Members has a Step-Up Add TCV from January 2022 ≥0.10%; and (2) Member has an ADV ≥0.30% of the TCV or Members has an ADV ≥35,000,000.
- Tier 3 offers an enhanced rebate of $0.0032 per share for qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where (1) MPID has a Step-Up ADAV from May 2021 ≥30,000,000 or MPID has a Step-Up Add TCV from May 2021 ≥0.30%; and (2) MPID has an ADV ≥0.30% of the TCV or MPID has an ADV ≥35,000,000.

The Exchange now proposes to add a new Tier 1 and renumber existing Tiers 1 through 3. Specifically, proposed Tier 1 would provide for the following:

- Proposed Tier 1 would offer an enhanced rebate of $0.0031 per share for qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where (1) Member has a Step-Up ADAV from January 2023 ≥10,000,000 or Member has a Step-Up Add TCV from January 2023 ≥0.10%; and (2) Member has an ADV ≥0.60% of the TCV.

Proposed Tiers 2 through 4 would have the same criteria and provide the same enhanced rebate as existing Tiers 1 through 3, respectively. The only proposed change is to modify the Tier numbers of Tier 1 through 3 to Tier 2 through 4, respectively.

Non-Displayed Step-Up Tier

In addition to the adoption of a new Step-Up Tier 1, the Exchange now proposes to amend footnote 2 to add a Non-Displayed Step-Up Tier, which will provide Members an opportunity to receive an enhanced rebate from the standard rebate[13] for liquidity adding non-displayed orders that yield fee codes HB,[14] HV,[15] and HY[16] and meet certain required volume-based criteria. The proposed criteria for the Non-Displayed Step-Up Tier is as follows:

- The proposed Non-Displayed Step-Up Tier would offer an enhanced rebate of $0.0025 per share for qualifying orders (*i.e.,* orders yielding fee codes HB, HV, or HY) where (1) Member has a Step-Up ADAV from January 2023 ≥10,000,000 or Member has a Step-Up Add TCV from January 2023 ≥0.10%; and (2) Member has an ADV ≥0.60% of the TCV.

The Exchange notes that the Step-Up Tiers in general are designed to provide Members with additional opportunities to receive enhanced rebates by increasing their order flow to the Exchange, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants. Like other Step-Up Tiers, the proposed Step-Up Tier 1 is designed to give members an additional opportunity to receive an enhanced rebate for orders meeting the applicable criteria. Furthermore, the proposed Non-Displayed Step-Up Tier is designed to increase the Members' provision of liquidity to the Exchange, which increases execution opportunities and provides for overall enhanced price discovery and price improvement opportunities on the Exchange. Increased overall order flow benefits all Members by contributing towards a robust and well-balanced market ecosystem.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged

[4] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (February 22, 2023), available at *https://www.cboe.com/us/equities/market_statistics/*.

[5] *See* BZX Equities Fee Schedule, Standard Rates.

[6] *Id.*

[7] Orders yielding Fee Code ''B'' are displayed orders adding liquidity to BZX (Tape B).

[8] Orders yielding Fee Code ''V'' are displayed orders adding liquidity to BZX (Tape A).

[9] Orders yielding Fee Code ''Y'' are displayed orders adding liquidity to BZX (Tape C).

[10] ''Step-Up Add TCV'' means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. ADAV means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis. 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.

[11] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

[12] ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV.

[13] Currently, the Exchange provides a standard rebate of $0.00100 per share for liquidity adding non-displayed orders that yield fee codes HB, HV, or HY.

[14] Orders yielding Fee Code ''HB'' are non-displayed orders adding liquidity to BZX (Tape B).

[15] Orders yielding Fee Code ''HV'' are non-displayed orders adding liquidity to BZX (Tape A).

[16] Orders yielding Fee Code ''HY'' are non-displayed orders adding liquidity to BZX (Tape C).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [20] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that its proposal to introduce a new Step-Up Tier 1 and a new Non-Displayed Step-Up Tier reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. The Exchange believes the proposed Step-Up Tier 1 and Non-Displayed Step-Up Tier are reasonable as they serve to incentivize Members to increase their liquidity-adding, displayed volume (Step-Up Tier 1) and liquidity-adding, non-displayed volume (Non-Displayed Step-Up Tier), which benefit all market participants by incentivizing continuous liquidity and thus, deeper, more liquid markets as well as increased execution opportunities. Particularly, the proposed incentives to provide displayed liquidity are designed to incentivize continuous displayed liquidity, which signals other market participants to take the additional execution opportunities provided by such liquidity, while the proposed incentives to provide non-displayed liquidity will further contribute 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.

In particular, the Exchange believes the proposed Step-Up Tier 1 and Non-Displayed Step-Up Tier represent an equitable allocation of rebates and are not unfairly discriminatory because all Members are eligible for those tiers and would have the opportunity to meet a tier's criteria and would receive the proposed rebate if such criteria is met. Further, the proposed rebates are commensurate with the proposed criteria. That is, the rebates reasonably reflect the difficulty in achieving the applicable criteria as proposed. 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 tier. While the Exchange has no way of predicting with certainty how the proposed tiers will impact Member activity, the Exchange anticipates that at least one Member will be able to satisfy the criteria proposed under Step-Up Tier 1 and Non-Displayed Step-Up Tier 1. The Exchange also notes that proposed tier/rebate 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 the modified tier, the Member will merely not receive that corresponding enhanced rebate.

Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[21] including the Exchange,[22] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [23]

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed tier changes apply to all Members equally in that all Members continue to be eligible for the current Step-Up Tiers, the proposed Step-Up Tier 1, and proposed Non-Displayed Step-Up Tier, have a reasonable opportunity to meet the tiers' criteria and will receive the corresponding additional rebates if such criteria are met. Additionally, the proposed tier changes are designed to attract additional order flow to the Exchange. The Exchange believes that the proposed tier criteria would incentivize market participants to direct liquidity adding displayed and non-displayed 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 15 other equities exchanges and 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

[19] *Id.*

[20] 15 U.S.C. 78f(b)(4).

[21] *See, e.g.,* EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[22] *See, e.g.,* BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[23] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

exchange has more than 15% [24] of the market share. 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.'' [25] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''.[26] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [27] and paragraph (f) of Rule 19b–4 [28] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2023–020 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2023–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2023–020 and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2023–05337 Filed 3–15–23; 8:45 am]

**BILLING CODE 8011–01–P**

[24] *Supra* note 3.

[25] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[26] *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)).

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f).

[29] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–493, OMB Control No. 3235–0550]**

## Submission for OMB Review; Comment Request; Extension: Securities Act Rule 477

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement, including any amendments or exhibits to the registration statement. The rule provides that if an issuer intends to rely on the safe harbor contained in Securities Act Rule 155 to conduct an unregistered private offering of securities, the issuer must affirmatively state in the withdrawal application that it plans to undertake a subsequent private offering of its securities. Without this statement, the Commission would not be able to monitor a company's reliance on, and compliance with, Securities Act Rule 155(c). All information submitted to the Commission under Securities Act Rule 477 is available to the public for review. Information provided under Securities Act Rule 477 is mandatory. The

information is required on occasion. We estimate that approximately 327 issuers will file Securities Act Rule 477 submissions annually at an estimated one hour per response for a total annual burden of approximately 327 hours. We estimate that 100% of the reporting burden is prepared by the issuer.

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by April 17, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 9, 2023.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023–05377 Filed 3–15–23; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–97104; File No. SR–FINRA–2023–004]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Research Analyst (Series 86/87) Examination

March 10, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing revisions to the content outline and selection specifications for the Research Analyst (Series 86/87) exam program, including a reduction of the number of scored questions on the Series 86 exam. The proposed revisions update the material to incorporate the functions and associated tasks currently performed by a Research Analyst and to reflect the laws, rules, and regulations most relevant to these functions and associated tasks. FINRA is also proposing to make changes to the format of the content outline to reflect these revisions. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws, or Rules of FINRA.

The revised content outline appears in Exhibit 3a. The Series 86/87 exam selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to Exchange Act Rule 24b–2.[5]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

Section 15A(g)(3) of the Exchange Act [6] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with this provision, FINRA has developed exams that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the exams to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the exams.

FINRA Rule 1220(b)(6) (''Research Analyst'') requires an associated person whose primary job function is to provide investment research and who is primarily responsible for the preparation of the substance of an equity research report,[7] or whose name appears on an equity research report, to be registered and qualified as a Research Analyst.[8] An associated person registering as Research Analyst after October 1, 2018, shall, prior to or concurrent with such registration, pass the general knowledge co-requisite Securities Industry Essentials (SIE) Exam and the Series 86/87 exam, or obtain a waiver.[9] Rather than pass both the Series 86 and Series 87 exams, an associated person may obtain a waiver from the analytical portion (Series 86 exam) upon written request (pursuant to the FINRA Rule 9600 Series) and verification that the applicant has passed:

(i) Levels I and II of the CFA Examination; or

(ii) if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (b)(6) of Rule 1220, Levels I and II of the Chartered Market Technician (''CMT'') Examination; and

(iii) has either functioned as a research analyst continuously since having passed the Level II CFA or CMT

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] 17 CFR 240.24b–2; FINRA also is proposing corresponding revisions to the Series 86/87 question bank. Based on instruction from the Commission, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and FINRA is not filing the question bank for review. *See* Letter from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation Inc., dated July 24, 2000. The question bank is available for the Commission's review.

[6] 15 U.S.C. 78*o*–3(g)(3).

[7] *See* Rule 2241(a)(11).

[8] *See* Rule 1220(b)(6).

[9] *See* Rule 1220(b)(6)(B) (''Qualifications'').

Examination or applied for registration as a Research Analyst within two years of having passed the Level II CFA or CMT Examination.[10]

FINRA has created Qualification Exam Content Committees to advise FINRA's Testing and Continuing Education Department regarding the content of all qualification exams. Committee members are drawn from the industry and self-regulatory organization staff.[11] In consultation with the appropriate committee of industry representatives, FINRA recently reviewed the Series 86/87 exam program. As a result of this review, FINRA is proposing to revise the content outline to incorporate the functions and associated tasks currently performed by a Research Analyst and to reflect the laws, rules, and regulations most relevant to these functions and associated tasks. FINRA is also proposing to make changes to the format of the content outline to reflect these revisions.

Current Outline

The current content outline is divided into two parts, with each part divided further into major functions performed by a Research Analyst. The following reflects the two parts, total number of questions associated with each part, and major job functions, including the allocation of questions among the major job functions:

*Part I. Series 86 (100 questions):*

*Function 1:* Information and Data Collection (10 questions); and

*Function 2:* Analysis, Modeling and Valuation (90 questions).

*Part II. Series 87 (50 questions):*

*Function 3:* Preparation of Research Reports (32 questions); and

*Function 4:* Dissemination of Information (18 questions).

The current outline describes each function, including specific tasks and activities associated with performing that function. The current outline also includes a preface addressing the purpose, structure, administration and scoring of the exams.

Proposed Revisions

FINRA is proposing to divide the Series 86 exam into three major job functions and to reduce the length of the Series 86 exam from 100 questions to 85 questions. The Series 87 exam will remain divided into two functions with 50 questions total, though the number of questions will be reallocated between the two functions of the Series 87 exam. The following reflects the proposed revisions:

*Part I. Series 86 (85 questions):*

*Function 1:* Information and Data Collection (18 questions);

*Function 2:* Data Verification and Analysis (28 questions); and

*Function 3:* Valuation and Forecasting (39 questions).

*Part II. Series 87 (50 questions):*

*Function 4:* Preparation of Research Reports (36 questions); and

*Function 5:* Dissemination and Marketing of Information (14 questions).

Each function includes specific tasks describing activities associated with performing that function. There are two tasks (1.1–1.2) associated with Function 1; one task (2.1) associated with Function 2; three tasks (3.1–3.3) associated with Function 3; two tasks (4.1–4.2) associated with Function 4; and two tasks (5.1–5.2) associated with Function 5.[12] For example, one such task (3.3) is ''forecast the future valuation of the company and determine any recommendation by identifying key catalysts that may alter the price of a stock and identifying patterns or events (macro, political, or company-specific) that move stock prices and create investment opportunities.'' [13] Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* characteristics of markets, factors that could impact the perceived risk of an investment, technical analysis, large shareholder exposure, activist investors, valuation considerations).[14] Additionally, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks. These include the applicable FINRA rules (*e.g.,* FINRA Rule 2241) and SEC rules and regulations (*e.g.,* Regulation AC under the Exchange Act).[15] FINRA conducted a job analysis study of Research Analysts,[16] which included the use of a survey, to develop each function and associated tasks and update the required knowledge set forth in the revised content outline. These functions and associated tasks reflect the day-to-day activities of a Research Analyst.

In reviewing the results of the survey and the changes to the tasks and knowledge required to function as a Research Analyst, FINRA believes an 85-question Series 86 exam can sufficiently sample the requisite knowledge domain. FINRA looked at the impact of shorter test forms on key psychometric properties of the test, including *decision agreement* (the probability that the 85-item version of the test and the 100-item version yield the same pass-fail result for a given examinee). The results show that the move to 85-item test forms will have minimal impact on the effectiveness of the Series 86 exam in assessing the level of proficiency required of an entry-level Research Analyst. Therefore, the 85-question Series 86 exam can reliably assess the level of proficiency required of an entry-level Research Analyst. The time given to complete the Series 86 exam will remain at four hours and 30 minutes to continue to ensure candidate performance is not affected by time constraints.[17]

As noted above, FINRA is also proposing to revise the content outline to reflect the laws, rules, and regulations most relevant to the functions and associated tasks of a Research Analyst, including incorporating FINRA Rule 5280 (''Trading Ahead of Research Reports'') in the content outline.[18]

Finally, FINRA is proposing corresponding changes to the Series 86/87 selection specifications and question bank.

Availability of Content Outline

The current Series 86/87 exam content outline is available on FINRA's website, at *www.finra.org/brokerqualifications/exams.* The revised Series 86/87 exam content outline will replace the current content outline on FINRA's website.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published following Commission notice of the filing of the proposed rule change for immediate effectiveness.

[10] *See* Rule 1220(b)(6)(B) (''Qualifications'').

[11] More information about the Qualification Exam Content Committees can be found on FINRA's website at *https://www.finra.org/about/governance/ad-hoc-committees.*

[12] *See* Exhibit 3a, Outline Pages 3–9.

[13] *See* Exhibit 3a, Outline Page 6.

[14] *See* Exhibit 3a, Outline Pages 3–9.

[15] *See* Exhibit 3a, Outline Page 7.

[16] FINRA periodically conducts job analysis studies to help ensure exams test current job functions and required knowledge of registered representatives to perform associated tasks. This is an internal process that may include conducting focus panels, consulting with the appropriate committees, or surveying registered representatives to determine current job functions and associated tasks of registered representatives so that FINRA may update exams accordingly.

[17] The time given to complete the Series 87 exam will also remain the same, at one hour and 45 minutes.

[18] The proposed revisions to the content outline will also reflect the removal of FINRA Rule 2220 (''Options Communications'') from the content outline because, based on discussions with the appropriate committee of industry representatives, this rule is not relevant to the functions and associated tasks currently performed by Research Analysts.

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 86/87 exam program are consistent with the provisions of Section 15A(b)(6) of the Exchange Act,[19] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Exchange Act,[20] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the exam program to incorporate the functions and associated tasks currently performed by a Research Analyst and to reflect the most relevant laws, rules and regulations covered by the exams.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed revisions will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The updated exam program aligns with the functions and associated tasks currently performed by Research Analysts and tests knowledge of the most relevant laws, rules, regulations and skills relevant to those functions and tasks. As such, the proposed revisions would make the exams more efficient and effective.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f)(1) of Rule 19b–4 thereunder.[22] 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–FINRA–2023–004 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2023–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2023–004 and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2023–05335 Filed 3–15–23; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 15 U.S.C. 78*o*–3(b)(6).

[20] 15 U.S.C. 78*o*–3(g)(3).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(1).

[23] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–97109; File No. SR–BX–2023–006]**

## Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 2 Regarding PRISM Pricing

March 10, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2023, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its Pricing Schedule at Options 7, Section 2.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*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 BX's Pricing Schedule at Options 7, Section 2, BX Options Market-Fees and Rebates. Specifically, BX proposes to amend its BX Price Improvement Auction (''PRISM'') [3] pricing to: (1) amend PRISM Order [4] fees; and (2) specify the pricing related to unrelated market or marketable interest. Each change is described below.

PRISM Orders

The Exchange proposes to amend PRISM Order fees. Currently, a Customer is not assessed a PRISM Order fee and a Lead Market Maker,[5] BX Options Market Maker [6] and Non-Customer [7] are assessed a $0.30 per contract PRISM Order fee.[8] At this time, the Exchange proposes to assess no market participant a PRISM Order fee. Therefore, Customers, Lead Market Makers, BX Options Market Makers and Non-Customers would pay a PRISM Order fee of $0.00 per contract.

The Exchange also proposes to remove the current language in the Pricing Schedule which states, ''BX will apply the rebate to market participants that submitted a PRISM Order pursuant to a PRISM Auction and the PRISM Order traded with PRISM Response. The PRISM Order fee for Submitted PRISM Order will be applicable to any contract(s) for which a rebate is provided for PRISM Order Traded with PRISM Response.'' The first sentence is unnecessary as the pricing within Options 7, Section 2(5) clearly reflects the rebates. With this proposal, the second sentence is unnecessary as the Exchange proposes to assess no market participant a PRISM Order fee.

Unrelated Market or Marketable Interest

Next, the Exchange proposes to state the manner in which the Exchange assesses fees and pays rebates with respect to unrelated market or marketable interest received prior to the commencement of a PRISM Auction and during a PRISM Auction. Options 7, Section 2(5) does not currently detail such pricing.

Today, when a PRISM Order is a Customer order and executes against unrelated market or marketable interest received *during* a PRISM Auction, the Customer order will receive a rebate of $0.35 per contract for Penny Classes and $0.70 per contract for Non-Penny Classes, which represents the pricing within Options 7, Section 2(5). In this case, the unrelated market or marketable interest received during a PRISM Auction would be assessed a $0.49 per contract fee for Penny Classes or a $0.94 per contract fee for Non-Penny Classes as described in Options 7, Section 2(5).

Likewise, today, when a PRISM Order is a Lead Market Maker, BX Options Market Maker or Non-Customer order and executes against unrelated market or marketable interest received *during* a PRISM Auction, the Lead Market Maker, BX Options Market Maker or Non-Customer order will pay no fee, which represents the proposed pricing within Options 7, Section 2(5). In this case, the unrelated market or marketable interest received during a PRISM Auction would be assessed a $0.49 per contract fee for Penny Classes or a $0.94 per contract fee for Non-Penny Classes as described in Options 7, Section 2(5).

In contrast, today, when a PRISM Order is a Customer, Lead Market Maker, BX Options Market Maker or Non-Customer order and executes against unrelated market or marketable interest received *prior* to a PRISM Auction, the Customer, Lead Market Maker, BX Options Market Maker or Non-Customer order would be subject to the Taker Fee within Options 7, Section 2(1).[9] The unrelated market or marketable interest received prior to a PRISM Auction commenced would be paid the Maker Rebate within Options 7, Section 2(1).[10]

Interest resting on the Exchange's order book, whether received prior to the commencement of a PRISM auction or during a PRISM auction, would be allocated in accordance within the PRISM Auction in accordance with BX Options 3, Section 13(ii)(E) and (F).

The Exchange applies the order book pricing within Options 7, Section 2(1) to interest received *prior to* the PRISM Auction, which is considered unrelated market or marketable interest for purposes of the PRISM Auction, because the Exchange's order book pricing within Options 7, Section 2(1) seeks to pay rebates to Participants posting liquidity to the order book (makers of liquidity) and assess fees to Participants removing liquidity from the order book (takers of liquidity). Interest which rested on the order book *prior* to the commencement of a PRISM Auction will be paid a Maker Rebate because the BX Participant who submitted the interest, similar to other market participants who posted liquidity on the order book, would be considered a maker of liquidity. The BX Participant would have been aware [11] that no PRISM Auction was in progress at the time the interest was posted to the order book. The Exchange notes that at the time the interest was submitted to the order book, the BX Participant would have known [12] that there was no ongoing PRISM Auction and would not expect to be subject to the PRISM

[3] A Participant may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker dealer, or any other entity (''PRISM Order'') against principal interest or against any other order (except as provided in sub-paragraph (i)(F) to Options 3, Section 13) it represents as agent (an ''Initiating Order'') provided it submits the PRISM Order for electronic execution into the PRISM Auction (''Auction'') pursuant to Options 3, Section 13.

[4] A PRISM Order is one-side of a PRISM Auction Order that represents an agency order on behalf a Public Customer, broker-dealer or other entity which is paired with an Initiating Order. A PRISM Auction Order is a two-sided, paired order comprised of a PRISM Order and an Initiating Order. *See* Options 7, Section 2(5).

[5] The term ''Lead Market Maker'' or (''LMM'') applies to a registered BX Options Market Maker that is approved pursuant to Options 2, Section 3 to be the LMM in an options class (options classes). *See* Options 7, Section 1(a).

[6] The term ''BX Options Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security. *See* Options 7, Section 1(a).

[7] The term ''Non-Customer'' shall include a Professional, Broker-Dealer and Non-BX Options Market Maker. *See* Options 7, Section 1(a).

[8] Today, the PRISM Order fee for Submitted PRISM Order is applicable to any contract(s) for which a rebate is provided for PRISM Order Traded with PRISM Response.

[9] BX assesses the following Penny Symbol Taker Fees: $0.50 per contract for a Lead Market Maker, Market Maker, Non-Customer, and Firm and $0.46 per contract for a Customer. BX assesses the following Non-Penny Symbol Taker Fees: $1.10 per contract for a Lead Market Maker, Market Maker, Non-Customer, and Firm and $0.79 per contract for a Customer.

[10] BX pays the following Penny Symbol Maker Rebates: $0.29 per contract for a Lead Market Maker, $0.25 per contract for a Market Maker (except that the Maker Rebate for Lead Market Makers and Market Makers will be $0.22 per contract in SPY and $0.42 per contract in AAPL and QQQ), $0.12 per contract for a Non-Customer and Firm, and $0.30 per contract for a Customer. BX pays the following Non-Penny Symbol Maker Rebates: $0.45 per contract for a Lead Market Maker, $0.40 per contract for a Market Maker, $0.45 per contract for a Non-Customer and Firm, and $0.90 per contract for a Customer (except that Customer orders will receive a $0.45 per contract Non-Penny Symbol Maker Rebate if the quantity of transactions where the contra-side is also a Customer is greater than 50% of Participant's total Customer Non-Penny Symbol volume which adds liquidity in that month).

[11] BX Participants become aware of ongoing PRISM Auctions as BX disseminates a PRISM Auction Notification or ''PAN'' when the Exchange receives a PRISM Order for Auction processing. The PAN details the price, side, size, and options series of the PRISM Order over the BX Depth Feed and the Exchange's Specialized Quote Feed. *See* BX Options 3, Section 13(ii)(A)(2).

[12] *See* note 10 above.

pricing. The Exchange seeks to reward BX Participants who provide liquidity to the order book by paying rebates. The Exchange's proposal to pay Maker Rebates to unrelated market or marketable interest that posted to the order book prior to the commencement of a PRISM Auction aligns with the Exchange's goals of attracting liquidity to the order book and uniformly pays similarly situated BX Participants a Maker Rebate. Further, in this scenario the PRISM Order that executes against the unrelated market or marketable interest that posted to the order book prior to the commencement of a PRISM Auction would be subject to the Taker Fee pricing within Options 7, Section 2(1) because the PRISM Order removed liquidity from the order book. This is consistent with the pricing assessed to any other Participant that removed liquidity from BX's order book as they would be similarly assessed the Taker Fee pricing within Options 7, Section 2(1).

In contrast, the Exchange applies PRISM pricing within Options 7, Section 2(5) to the unrelated market or marketable interest when interest arrived *during* a PRISM Auction. The Exchange seeks to incentivize Participants to submit PRISM Auction Orders to receive a guaranteed execution, potential price improvement, and Customer rebates. BX Participants submitting interest to the order book during a PRISM Auction are aware [13] that they may be allocated in the PRISM Auction. The Exchange assesses the PRISM pricing in Options 7, Section 2(5) in the same manner that responders to the PRISM Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PRISM Auction would be uniformly subject to the same fees as those BX Participants who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement. The Exchange's PRISM pricing assesses fees to PRISM PAN responses and unrelated market or marketable interest that allocated in the PRISM Auction and rewards those BX Participants with a guaranteed execution and potential price improvement. The response fees assessed by the Exchange are intended to fund the Customer rebates paid by the Exchange which seek to incentivize increased Customer order flow to the PRISM Auction.

The Exchange's pricing models for the order book and PRISM Auction each seek to attract liquidity to BX and reward Participants differently for the order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the PRISM Auction based on the timing of when the order entered the order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission* [16] (''NetCoalition''), the D.C. Circuit stated, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their 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'. . . .'' [17]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

PRISM Orders

The Exchange's proposal to amend PRISM Order fees so that no market participant pays a PRISM Order fee is reasonable, equitable and not unfairly discriminatory as the Exchange proposes to assess no market participant a PRISM Order fee. Customers, Lead Market Makers, BX Options Market Makers and Non-Customers would uniformly pay no PRISM Order fees.

The Exchange's proposal to remove the current language in the Pricing Schedule which states, ''BX will apply the rebate to market participants that submitted a PRISM Order pursuant to a PRISM Auction and the PRISM Order traded with PRISM Response. The PRISM Order fee for Submitted PRISM Order will be applicable to any contract(s) for which a rebate is provided for PRISM Order Traded with PRISM Response'' is reasonable, equitable and not unfairly discriminatory as the language is not necessary specifically in light of the Exchange's proposal to assess no market participant a PRISM Order fee.

Unrelated Market or Marketable Interest

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received *prior* to the commencement of a PRISM Auction is reasonable because the Exchange's order book pricing within Options 7, Section 2(1) seeks to pay rebates to Participants posting liquidity to the order book (makers of liquidity) and assesses fees to Participants removing liquidity from the order book (takers of liquidity). Interest which rested on the order book *prior* to the commencement of a PRISM Auction will be paid a Maker Rebate because the BX Participant who submitted the interest, similar to other market participants who posted liquidity on the order book, would be considered a maker of liquidity. The BX Participant would have been aware that no PRISM Auction was in progress at the time the interest was posted to the order book.[18] The Exchange notes that at the time the interest was submitted to the order book, the BX Participant would have

[13] *See* note 10 above.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[17] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[18] *See* note 5 above.

known [19] that there was no ongoing PRISM Auction and would not expect to be subject to the PRISM pricing. The Exchange seeks to reward BX Participants who provide liquidity to the order book by paying rebates. The Exchange's proposal to pay Maker Rebates to unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction aligns with the Exchange's goals of attracting liquidity to the order book and uniformly pays similarly situated BX Participants a Maker Rebate. Further, in this scenario the Exchange believes that it is reasonable to assess the PRISM Order that executes against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction the Taker Fee pricing within Options 7, Section 2(1) because the PRISM Order removed liquidity from the order book. This is consistent with the pricing assessed to any other Participant that removed liquidity from BX's order book as they would be uniformly assessed the Taker Fee pricing within Options 7, Section 2(1). The Taker Fee pricing within Options 7, Section 2(1) funds the Maker Rebates within Options 7, Section 2(1). BX pays Maker Rebates to attract order flow to BX and all Participants may interact with this order flow.

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received *prior* to the commencement of a PRISM Auction is equitable and not unfairly discriminatory because all BX Participants who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PRISM Auction will be uniformly paid a Maker Rebate. The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who posted liquidity on the order book as they would both be considered makers of liquidity. Further, all Participants who submitted a PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction would be uniformly assessed a Taker Fee. The Exchange's proposal would treat BX Participants who submitted PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who removed liquidity from the order book as they would both be considered takers of liquidity.

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received during a PRISM Auction is reasonable because the Exchange seeks to incentivize Participants to submit PRISM Auction Orders to receive a guaranteed execution, potential price improvement, and Customer rebates. BX Participants submitting interest to the order book during a PRISM Auction are aware [20] that they may be allocated in the PRISM Auction. The Exchange assesses the PRISM pricing in Options 7, Section 2(5) in the same manner that responders to the PRISM Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PRISM Auction would be uniformly subject to the same fees as those BX Participants who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement. The Exchange's PRISM pricing assesses fees to PRISM PAN responses and unrelated market or marketable interest that allocated in the PRISM Auction and rewards those BX Participants with a guaranteed execution and potential price improvement. The response fees assessed by the Exchange are intended to fund the Customer rebates paid by the Exchange which seek to incentivize increased Customer order flow to the PRISM Auction.

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received during a PRISM Auction is equitable and not unfairly discriminatory because all BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction would uniformly be assessed the same fees. The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction in the same manner as other BX Participants who submitted PAN responses into the PRISM Auction and were provided with a guaranteed execution and potential price improvement. Further, paying a rebate of $0.35 per contract for Penny Classes and $0.70 per contract for Non-Penny Classes only to Customer PRISM Orders that executes against unrelated market or marketable interest received during a PRISM Auction is equitable and not unfairly discriminatory because Customer liquidity is the most sought after liquidity among Participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

*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.

Intermarket Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice to initiate a price improvement auction. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received *prior* to the commencement of a PRISM Auction does not impose an undue burden on competition because all BX Participants who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PRISM Auction will be uniformly paid a Maker Rebate.

[19] BX Participants become aware of ongoing PRISM Auctions as BX disseminates a PRISM Auction Notification or ''PAN'' when the Exchange receives a PRISM Order for Auction processing. The PAN details the price, side, size, and options series of the PRISM Order over the BX Depth Feed and the Exchange's Specialized Quote Feed. *See* BX Options 3, Section 13(ii)(A)(2).

[20] *See* note 10 above.

The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who posted liquidity on the order book as they would both be considered makers of liquidity. Further, all Participants who submitted a PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction would be uniformly assessed a Taker Fee. The Exchange's proposal would treat BX Participants who submitted PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who removed liquidity from the order book as they would both be considered takers of liquidity.

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received during a PRISM Auction does not impose an undue burden on competition because all BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction would uniformly be assessed the same fees. The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction in the same manner as other BX Participants who submitted PAN responses into the PRISM Auction and were provided with a guaranteed execution and potential price improvement. Further, paying a rebate of $0.35 per contract for Penny Classes and $0.70 per contract for Non-Penny Classes only to Customer PRISM Orders that executes against unrelated market or marketable interest received during a PRISM Auction does not impose an undue burden on competition because Customer liquidity is the most sought after liquidity among Participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

*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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[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: (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–BX–2023–006 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–BX–2023–006. 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–BX–2023–006 and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2023–05336 Filed 3–15–23; 8:45 am]

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[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–97106; File No. SR–NYSEARCA–2023–21]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

March 10, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') by (i) lowering the credit applicable to Tape B securities for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Adding Liquidity under Standard Rates; (ii) introducing a new pricing tier, Tier 5, under Adding Tiers; (iii) eliminating the BBO Setter Tier; and (iv) reformatting the tiers under Tape C Tiers for Adding. The Exchange proposes to implement the fee changes effective March 1, 2023. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the Fee Schedule by (i) lowering the credit applicable to Tape B securities for Adding Liquidity under Standard Rates; (ii) introducing a new pricing tier, Tier 5, under Adding Tiers; (iii) eliminating the BBO Setter Tier; and (iv) reformatting the tiers under Tape C Tiers for Adding. The Exchange proposes to implement the fee changes effective March 1, 2023.

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [3]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [4] Indeed, equity trading is currently dispersed across 16 exchanges,[5] numerous alternative trading systems,[6] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.[7] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.[8]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

Adding Liquidity—Tape B

The Exchange proposes to lower the credit applicable for Adding Liquidity in Tape B securities. Under Section III. Standard Rates—Transactions, for securities priced at or above $1.00, the Exchange currently provides ETP Holders a credit of $0.0020 per share for Adding Liquidity in Tape A, Tape B and Tape C securities. The Exchange proposes to lower the credit for Adding Liquidity in Tape B securities from $0.0020 per share to $0.0016 per share. The purpose of adjusting the Tape B credit for Adding Liquidity is for business and competitive reasons. The credit applicable for Adding Liquidity in Tape A and Tape C securities would remain unchanged.

The Exchange believes the proposed new credit would continue to incentivize ETP holders to direct their liquidity-providing orders in Tape B securities to the Exchange. As noted below, the proposed credit would continue to be in line with credits provided by the Exchange's competitors. The Exchange believes that pricing is just one of the factors that ETP Holders consider when determining where to direct their order flow. Among other things, factors such as execution quality, fill rates, and volatility, are important and deterministic to ETP Holders in deciding where to send their order flow. These factors are particularly relevant for trading in Tape B securities for which the Exchange is the primary market.

Adding Tiers—Tier 5

The Exchange proposes to introduce a new pricing tier, Tier 5, in the Adding Tiers table under Section VII. Tier Rates—Round Lots and Odd Lots (Per Share Price $1.00 or Above). As proposed, an ETP Holder could qualify for a credit of $0.0022 per share for Adding in Tape A and Tape C securities and $0.0020 per share for Adding in Tape B securities if the ETP Holder has Adding ADV that is equal to at least 0.15% of CADV.

The Exchange believes that the proposed new pricing tier would incentivize ETP Holders to route their liquidity-providing order flow to the Exchange in order to qualify for the tier, which would provide higher credits than those currently available under Standard Rates. This in turn would support the quality of price discovery on the Exchange and provide additional price improvement opportunities for incoming orders. The Exchange believes that by correlating the amount of the fee to the level of orders sent by an ETP Holder that add liquidity, the Exchange's fee structure would incentivize ETP Holders to submit more orders that add liquidity to the Exchange, thereby increasing the potential for price improvement to

[3] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[4] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[5] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share.*

[6] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[7] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[8] *See id.*

incoming marketable orders submitted to the Exchange.

As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Based on the profile of liquidity-adding firms generally, the Exchange believes that a number of ETP Holders could qualify for the proposed new pricing tier if they choose to direct their order flow to the Exchange. However, without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any additional ETP Holders directing orders to the Exchange in order to qualify for the new Tier 5 credits.

BBO Setter Tier

The Exchange currently provides incremental credits under the BBO Setter Tier pricing tier. Specifically, the Exchange currently provides an incremental credit of $0.0004 per share for orders that set a new NYSE Arca BBO in Tape A and Tape C securities and $0.0002 per share for orders that set a new NYSE Arca BBO in Tape B securities.[9] To qualify for the BBO Setter Tier, ETP Holders must execute Adding ADV per month of at least 0.70% of CADV, and provided that an ETP ID (associated with an ETP Holder) (1) executes Adding ADV per month of at least 0.20% of CADV, (2) sets a new NYSE Arca BBO with at least 0.10% of CADV, and (3) sets a new NYSE Arca BBO of at least 40% of that ETP ID's Adding ADV.[10]

The Exchange proposes to eliminate the BBO Setter Tier pricing tier and footnote (c) associated with the pricing tier and remove it from the Fee Schedule because the pricing tier has been underutilized by ETP Holders.[11] The Exchange has observed that not a single ETP Holder has qualified for the pricing tier proposed for elimination in the last twelve months. Since the BBO Setter Tier pricing tier has not been effective in accomplishing its intended purpose, the Exchange has determined to eliminate the pricing tier from the Fee Schedule.

Tape C Tiers

The Exchange currently provides the following credits to ETP Holders that add liquidity in Tape C securities on the Exchange:

- Tier 3 credit of $0.0030 per share for ETP Holders that have at least 0.20% Adding ADV as a percentage of CADV;
- Tier 2 credit of $0.0033 per share for ETP Holders that have at least 0.35% Adding ADV as a percentage of CADV; and
- Tier 1 credit of $0.0034 per share for ETP Holders that have at least 0.40% Adding ADV as a percentage of CADV and a fee of $0.0029 per share for removing liquidity.

With this proposed rule change, the Exchange proposes to reformat the credits payable under the Tape C Tier for Adding table such that the tier that pays the highest credit would appear at the top of the table followed by the tier that pays the second highest credit, then the tier that pays the lowest credit. With this proposed rule change, the reformatted Tape C Tiers for Adding table would appear on the Fee Schedule as follows:

TAPE C TIERS FOR ADDING

| Tier | Minimum criteria for tape C adding | Rate |
|---|---|---|
| Tier 1 | 0.40% of CADV | ($0.0034) $0.0029 fee for Removing Liquidity. |
| Tier 2 | 0.35% of CADV | ($0.0033). |
| Tier 3 | 0.20% of CADV | ($0.0030). |

The Exchange is not proposing any substantive change to the requirements to qualify for Tape C Tiers for Adding pricing tier or the level of the credits payable under Tape C Tiers for Adding pricing tier.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market. 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.'' [14]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

Adding Liquidity—Tape B

The Exchange believes that its proposal to lower the credit provided for Adding Liquidity in Tape B

[9] *See* Securities Exchange Act Release No. 83032 (April 11, 2018), 83 FR 16909 (April 17, 2018) (SR–NYSEArca–2018–20).

[10] Footnote (c) under the BBO Setter Tier table provides that the BBO Setter Credit is in addition to the ETP Holder's Tiered or Basic Rate credit(s), and for Tape B and Tape C, the BBO Setter Credit is in addition to any capped credit.

[11] With the proposed deletion of footnote (c) under the BBO Setter Tier table, the Exchange proposes to renumber current footnotes (d), (e) and (f) under the Retail Tiers table as footnotes (c), (d) and (e) and renumber current footnotes (g) and (h) under the Tape B Tiers table as footnotes (f) and (g).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

securities is reasonable, equitable and not unfairly discriminatory as it would apply uniformly to all similarly situated participants. The Exchange believes the proposed change (a $0.0004 decrease from the current credit) is reasonable in that it represents a modest decrease from the current credit provided under Standard Rates. The Exchange believes that the proposed credit, albeit lower than the current level, would continue to provide an incentive to ETP Holders to submit liquidity providing order flow in Tape B securities to the Exchange. The Exchange believes that even with the proposed reduced credit in Tape B securities, the Exchange's pricing incentive would remain in line with credits provided by the Exchange's competitors.[15] Additionally, the Exchange believes that its proposal is an equitable allocation of its fees and credits and is not unfairly discriminatory because the Exchange will apply the credit equally to all ETP Holders. All similarly situated participants would be subject to the same credit, and access to the Exchange is offered on terms that are not unfairly discriminatory.

Adding Tiers—Tier 5

The Exchange believes that the proposed new Tier 5 pricing tier is reasonable because it is designed to encourage increased trading activity on the Exchange. The Exchange believes it is reasonable to require ETP Holders to meet the applicable volume threshold as it offers liquidity providers an opportunity to receive an enhanced rebate. Further, the proposed new pricing tier is reasonable as it would provide ETP Holders an additional opportunity to qualify for a rebate by meeting lower volume threshold than that required to qualify for the current pricing tiers under Adding Tiers. The Exchange believes that the proposal represents a reasonable effort to promote price improvement and enhanced order execution opportunities for ETP Holders. All ETP Holders would benefit from the greater amounts of liquidity on the Exchange, which would represent a wider range of execution opportunities. The Exchange believes the proposed new Tier 5 pricing tier is a reasonable means to encourage ETP Holders to increase their liquidity providing orders in Tape A, Tape B and Tape C securities.

The Exchange believes that the proposed rule change to introduce the new pricing tier is equitable and not unfairly discriminatory. The Exchange believes that the proposal does not permit unfair discrimination because the proposed new pricing tier would be available to all similarly situated ETP Holders and all ETP Holders would be subject to the same requirement to qualify for the proposed new credit. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees and credits under the proposal. The Exchange further believes that the proposed fee change would not permit unfair discrimination among ETP Holders because the general and tiered rates are available equally to all ETP Holders. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides liquidity on an exchange. More specifically, the Exchange notes that greater add volume order flow may provide for deeper, more liquid markets and execution opportunities at improved prices, which the Exchange believes would incentivize liquidity providers to submit additional liquidity and enhance execution opportunities.

BBO Setter Tier

The Exchange believes that the proposed rule change to eliminate the BBO Setter Tier is reasonable because the pricing tier has been underutilized and has not incentivized ETP Holders to bring liquidity and increase trading on the Exchange. No ETP Holder has availed itself of the pricing tier in the last twelve months. The Exchange does not anticipate any ETP Holder in the near future to qualify for the BBO Setter Tier. The Exchange believes it is reasonable to eliminate requirements and credits, and even entire pricing tiers, when such incentives become underutilized. The Exchange believes eliminating underutilized incentive programs would also simplify the Fee Schedule. The Exchange further believes that removing reference to the pricing tier that the Exchange proposes to eliminate from the Fee Schedule would also add clarity to the Fee Schedule. The Exchange believes that eliminating requirements and credits, and even entire pricing tiers, from the Fee Schedule when such incentives become ineffective is equitable and not unfairly discriminatory because the requirements, and credits, and even entire pricing tiers, would be eliminated in their entirety and would no longer be available to any ETP Holder. All ETP Holders would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and non-discriminatory terms. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of the underutilized pricing tier would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

Tape C Tiers

The Exchange believes that the proposed change to the Tape C Tiers for Adding pricing tier is reasonable and equitable because the proposed changes are non-substantive, and the Exchange is not changing any current fees or credits that apply to trading activity on the Exchange. Further, the changes are designed to make the Fee Schedule easier to read and make it more user-friendly to better display the allocation of fees and credits among Exchange members. The Exchange believes that this proposed format will provide additional transparency of Exchange fees and credits. The Exchange also believes that the proposal is non-discriminatory because it would apply uniformly to all ETP Holders. The Exchange also believes that the proposed change would protect investors and the public interest because the reformatted pricing tier would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the rates applicable for services currently offered by the Exchange. Finally, the Exchange believes that the reformatted pricing tier, as proposed herein, will be clearer and less confusing for investors and will eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. The Exchange believes that the proposed reformatted pricing tier is equitable and not unfairly discriminatory because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule that impact ETP Holders. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them under the current pricing tier.

In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them

[15] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Standard Rates, which provides a credit of $0.0016 per share in Tape A, Tape B and Tape C securities.

better value. Moreover, this proposed rule change neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that this proposal does not permit unfair discrimination because the changes described in this proposal would be applied uniformly to all similarly situated ETP Holders and all ETP Holders would be subject to the same requirements. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [17]

*Intramarket Competition.* The Exchange believes the proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The proposed changes are designed to attract additional order flow to the Exchange. In this proposed rule change, the Exchange is adopting a new pricing tier. Thus, the proposed change provides another opportunity for ETP Holders to receive a credit based on their market-improving behavior and is reflective of the highly competitive market in which the Exchange operates. The new pricing tier may attract greater order flow to the Exchange, which would benefit all market participants trading on the Exchange. The proposed reduced credit is reflective of the need to periodically calibrate the criteria required to receive credits. The Exchange has limited resources with which to apply to credits. Given the competitive environment among exchanges and other trading venues, the Exchange must ensure that it is requiring the most beneficial market activity for a credit that is permitted in the competitive landscape for order flow. In this regard, the Exchange notes that other market venues are free to adopt the same or similar credits and incentives as a competitive response to this proposed change. Moreover, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result and, conversely, if the proposal is successful at attracting greater volume to the Exchange other market venues are free to make similar changes as a competitive response. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage ETP Holders to send orders, thereby contributing towards a robust and well-balanced market ecosystem. The Exchange also does not believe the proposed rule change to eliminate an underutilized pricing tier and reformatting an existing pricing tier will impose any burden on intramarket competition because the proposed change would impact all ETP Holders uniformly. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

*Intermarket Competition.* The Exchange operates in a highly competitive market in which market 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. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed changes could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [18] of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**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–2023–21 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

[16] 15 U.S.C. 78f(b)(8).

[17] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[18] 15 U.S.C. 78s(b)(3)(A).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2023–21. 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 offices 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–2023–21, and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2023–05334 Filed 3–15–23; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** 30-Day notice.

**SUMMARY:** The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

**DATES:** Submit comments on or before April 17, 2023.

**ADDRESSES:** Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** This information collection will facilitate registration for the new e-learning and networking platform for women entrepreneurs interested in accessing resources to support growing an existing business. This information collection will enable the Agency to track customer use of the platform and its resources. By collecting basic demographic information and data on the registrant's entrepreneurial goals, the SBA will better understand who is using the platform and their business goals, and can develop a platform that would enable the user to tailor delivery of content to meet their needs. This data collection will also facilitate user connectivity to relevant resources (peer-to-peer learning, networking, mentoring, etc.). Information collected will be used for determining the scope of user participation on the platform, as well as user satisfaction with platform content.

#### Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

*OMB Control:* 3245–0399.

*Title:* Women's Digitalization (Entrepreneur Learning) Initiative Registration.

*Description of Respondents:* To aid, counsel, assist, and protect the interests of small business concerns to preserve free competitive enterprise.

*Estimated Number of Respondents:* 500,000.

*Estimated Annual Responses:* 500,000.

*Estimated Annual Hour Burden:* 6,667.

**Curtis Rich,**

*Agency Clearance Officer.*

[FR Doc. 2023–05374 Filed 3–15–23; 8:45 am]

**BILLING CODE 8026–09–P**

## DEPARTMENT OF STATE

**[Public Notice 12011]**

### Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "Pacita Abad" 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 ''Pacita Abad'' at the Walker Art Center, Minneapolis, Minnesota; the San Francisco Museum of Modern Art, San Francisco, California; MoMA PS1, New York, New York; 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:** Elliot Chiu, Attorney-Adviser, 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, 2200 C Street NW (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), E.O. 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, Delegation of Authority No. 236–3 of August 28,

2000, and Delegation of Authority No. 523 of December 22, 2021.

**Scott Weinhold,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2023–05384 Filed 3–15–23; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the City of Lakeland and the Federal Aviation Administration for the Lakeland Linder Regional Airport, Lakeland, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Request for public comment.

**SUMMARY:** The FAA hereby provides notice of intent to release 0.69 acres at the Lakeland Linder Regional Airport, Lakeland, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Lakeland, dated September 26, 1947. The release of property will allow the City of Lakeland to use the property for other than aeronautical purposes. The property is located off of Air Park Drive at the Lakeland Linder Regional Airport in Polk County. The parcel is currently designated as surplus property. The property will be released of its federal obligations for the purpose of selling the property at fair market value for construction of commercial/industrial development. The fair market value lease of this parcel has been determined to be $120,000. Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Lakeland Linder Regional Airport and the FAA Airports District Office.

**DATES:** Comments are due on or before April 17, 2023.

**ADDRESSES:** Documents are available for review at Melbourne International Airport, and the FAA Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819. Written comments on the Sponsor's request must be delivered or mailed to: Marisol Elliott, Community Planner, Orlando Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819.

**FOR FURTHER INFORMATION CONTACT:** Marisol Elliott (407) 487–7231, Community Planner, Orlando Airports District Office, 8427 SouthPark Circle, Suite 524, Orlando, FL 32819.

**SUPPLEMENTARY INFORMATION:** Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

**Bartholomew Vernace,**

*Manager, Orlando Airports District Office, Southern Region.*

[FR Doc. 2023–05365 Filed 3–15–23; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2010–0044]**

### Trinity Railway Express's Request To Amend Its Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation DOT.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on March 3, 2023, the Trinity Railway Express (TRE) submitted a request for amendment (RFA) to its FRA-certified positive train control (PTC) system. FRA is publishing this notice and inviting public comment on TRE's RFA to its PTC system.

**DATES:** FRA will consider comments received by April 5, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0044. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTC Safety Plan (PTCSP), a host railroad must submit, and obtain FRA's approval of, an RFA to its PTC system or PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on March 3, 2023, TRE submitted an RFA to its Interoperable Electronic Train Management System (I–ETMS), and that RFA is available in Docket No. FRA–2010–0044.

Interested parties are invited to comment on TRE's RFA by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA at FRA's sole discretion.

**Privacy Act Notice**

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of

names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2023–05349 Filed 3–15–23; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2015–0062]**

### Florida East Coast Railway's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on March 7, 2023, Florida East Coast Railway (FECR) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by April 5, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:** *Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2015–0062. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on March 7, 2023, FECR submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System (I–ETMS), and that RFA is available in Docket No. FRA–2015–0062.

Interested parties are invited to comment on FECR's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

#### Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2023–05369 Filed 3–15–23; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2010–0036]**

### Southeastern Pennsylvania Transportation Authority's Request To Amend Its Positive Train Control Implementation Plan, Including a Request for Approval of a Discontinuance or Modification of a Railroad Signal System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on February 22, 2023, the Southeastern Pennsylvania Transportation Authority (SEPTA) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Implementation Plan (PTCIP). The RFA includes a petition seeking approval to discontinue or modify a signal system. On August 17, 2022, FRA approved, in part, SEPTA's RFA to its PTCIP; however, FRA did not provide a decision on SEPTA's request to discontinue or modify a portion of its signal system at that time as FRA must seek public comment on that aspect before issuing a decision.

**DATES:** FRA will consider comments received by May 1, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a signal or train control system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0036. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.*

All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCIP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCIP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a discontinuance or material modification of a signal and train control system. Accordingly, this notice informs the public that, on February 22, 2023, SEPTA submitted an RFA to its PTCIP for its Advanced Civil Speed Enforcement System II (ACSES II), and that RFA is available in Docket No. FRA–2010–0036.

Specifically, under 49 CFR 236.1021(c), SEPTA requested approval to retire Walnut Interlocking from service, as Walnut Interlocking is no longer required for service due to the installation of Civic Interlocking and the modifications to Arsenal interlocking and the surrounding infrastructure. Arsenal Interlocking is being upgraded to microprocessor technology, and new Civic Interlocking is being installed with new Microprocessors. Existing Walnut Interlocking is no longer necessary.

As this RFA involves a request for FRA's approval to discontinue or modify a signal system, FRA is publishing this notice and invite public comment on the railroad's request to discontinue or modify a signal system.

Interested parties are invited to comment on SEPTA's RFA to its PTCIP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCIP at FRA's sole discretion.

## Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2023–05370 Filed 3–15–23; 8:45 am]

BILLING CODE 4910–06–P

# DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

**SUPPLEMENTARY INFORMATION:**

## Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

## Notice of OFAC Action(s)

On February 28, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

**Individuals**

1. HWANG, Kil Su (Korean: 황길수), Congo, Democratic Republic of the; DOB 09 Dec 1973; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [DPRK4].

   Designated pursuant to section 1(a)(iv) of Executive Order 13810 of September 20, 2017, "Imposing Additional Sanctions With Respect to North Korea," (E.O. 13810) for being a North Korean person, including a North Korean person that has engaged in commercial activity that generates revenue for the Government of North Korea or the Workers' Party of Korea.

2. PAK, Hwa Song (Korean: 박화성), 1041 avenue Ulindi, Quartier Golf, Lubumbashi, Katanga, Congo, Democratic Republic of the; DOB 13 Oct 1962; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [DPRK4].

   Designated pursuant to section 1(a)(iv) of E.O. 13810 for being a North Korean person, including a North Korean person that has engaged in commercial activity that generates revenue for the Government of North Korea or the Workers' Party of Korea.</PHOTO>

**Entities:**

1. KOREA PAEKHO TRADING CORPORATION (a.k.a. JOSON PAEKHO MUYOK HOESA; a.k.a. KOREA PAEKHO TRADING CORPORATION, LTD.; a.k.a. PAEKHO ARTS TRADING COMPANY; a.k.a. PAEKHO CONSTRUCTION SARL; a.k.a. PAEKHO FINE ART CORPORATION; a.k.a. PAEKHO TRADING COMPANY; a.k.a. WHITE TIGER TRADING COMPANY; a.k.a. "DEPARTMENT 30"; a.k.a. "KPTC"), Chongryu 3-dong, Taedonggang District, Pyongyang, Korea, North; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Target Type Government Entity [DPRK2].

   Designated pursuant to section 1(a)(i) of Executive Order 13687 of January 2, 2015, "Imposing Additional Sanctions With Respect to North Korea," (E.O. 13687) for being an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea.

an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea.

2. CHILSONG TRADING CORPORATION (a.k.a. CH'I'LSO'NG TRADING; a.k.a. CHILSONG TRADING COMPANY; a.k.a. CHILSONG TRADING CORP.; a.k.a. CHILSUNG TRADING COMPANY; a.k.a. KOREA CHILSONG TRADING CORPORATION), Pyongyang, Korea, North; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Target Type Government Entity [DPRK2].

   Designated pursuant to section 1(a)(i) of E.O. 13687 for being an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea.

3. CONGO ACONDE SARL, 1041 avenue Ulindi, Quartier Golf, Lubumbashi, Katanga, Congo, Democratic Republic of the; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Organization Established Date 26 Feb 2018; Commercial Registry Number CD/LSH/RCCM/18-B-00029 (Congo, Democratic Republic of the) [DPRK4] (Linked To: PAK, HWA SONG).

   Designated pursuant to section 1(a)(vi) of E.O. 13810 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, PAK HWA SONG, a person whose property and interests in property are blocked pursuant to E.O. 13810.

*Authorities:* E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp., p. 259; E.O. 13810, 82 FR 44705, 3 CFR, 2017 Comp., p. 379.

Dated: February 28, 2023.

**Andrea Gacki,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2023–05385 Filed 3–15–23; 8:45 am]

BILLING CODE 4810–AL–C

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Andrea Gacki, Director, tel.: 202–622–2420; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

**Notice of OFAC Actions**

On December 1, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

## Individuals

1. JON, Il Ho (Korean: 전일호) (a.k.a. CHON, Il Ho), Korea, North; DOB 20 Feb 1956; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport PS463120423 (Korea, North) (individual) [DPRK2].

   Designated pursuant to Section 1(a)(iii) of Executive Order 13687 of January 2, 2015, "Imposing Additional Sanctions With Respect To North Korea" (E.O. 13687) for being an official of the Workers' Party of Korea.

2. KIM, Su Gil (Korean: 김수길) (a.k.a. KIM, Su-kil), Korea, North; DOB 1950; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [DPRK2].

   Designated pursuant to Section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

3. YU, Jin (Korean: 유진) (a.k.a. YOO, Jin; a.k.a. YU, Chin), Korea, North; DOB 1960; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [DPRK2].

   Designated pursuant to Section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

*Authority:* E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp., p. 259.

Dated: December 1, 2022.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

**Editorial Note:** This document was received at the Office of the Federal Register on March 13, 2023.

[FR Doc. 2023–05383 Filed 3–15–23; 8:45 am]

BILLING CODE 4810–AL–C

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Capitalization of Interest

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments relating to the requirement to capitalize interest with respect to the production of property.

**DATES:** Written comments should be received on or before May 15, 2023 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1265—Public Comment Request Notice'' in the Subject line.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Capitalization of Interest.

*OMB Number:* 1545–1265.

*Regulation Project Number:* TD 8584.

*Abstract:* Internal Revenue Code section 263A(f) requires taxpayers to estimate the length of the production period and total cost of tangible personal property to determine if Interest capitalization is required. This regulation requires taxpayers to maintain contemporaneous written records of production period estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change

their methods of accounting for the capitalization of interest.

*Current Actions:* There are no changes being made to this form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, and business or other for-profit organizations.

*Estimated Number of Respondents:* 500,050.

*Estimated Time per Respondent:* 14 minutes.

*Estimated Total Annual Burden Hours:* 116,767.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 13, 2023.

**Ronald J. Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2023–05389 Filed 3–15–23; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Superfund Chemical Substance Tax; Request To Modify List of Taxable Substances; Filing of Petition for Cellulose Acetate (Degree of Substitution = 1.5 – 2.0)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of filing and request for comments.

**SUMMARY:** This notice of filing announces that a petition has been filed pursuant to Revenue Procedure 2022–26, 2022–29 I.R.B. 90, requesting that cellulose acetate (degree of substitution = 1.5 – 2.0) be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (''Code''). This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

**DATES:** Written comments and requests for a public hearing must be received on or before May 15, 2023.

**ADDRESSES:** Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate public docket number IRS–2023–0010 or cellulose acetate (degree of substitution = 1.5 – 2.0)) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may be mailed to: Internal Revenue Service, Attn: CC:PA:LPD:PR (Notice of Filing for Cellulose Acetate (Degree of Substitution = 1.5 – 2.0)), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Please contact Amanda F. Dunlap, (202) 317–6855 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

(a) *Overview.* The petition requesting the addition of cellulose acetate (degree of substitution = 1.5 – 2.0) to the list of taxable substances under section 4672(a) of the Code is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition content in this notice of filing does not constitute Department of the Treasury or Internal Revenue Service (IRS) confirmation of the accuracy of the information published.

Pursuant to section 10.02 of Rev. Proc. 2022–26, the IRS and Petitioner agreed to extend the 180-day determination.

(b) *Petition Content.*

(1) *Substance name:* Cellulose acetate (degree of substitution = 1.5 – 2.0).

According to the petition, the commonly used names of the substance include:

Cellulose acetate
Cellulose diacetate

(2) *Petitioner:* Celanese Ltd., an exporter of cellulose acetate (degree of substitution = 1.5 – 2.0).

(3) *Proposed Classification Numbers:*

HTSUS numbers: 5502.10.0000, 5403.33.0020
Schedule B numbers: 5502.10.0000, 5403.33.0000
CAS number: 9035–69–2

(4) *Petition Filing Date:* December 20, 2022.

Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26: July 1, 2022

(5) *Brief Description of the Petition:* According to the petition, cellulose acetate (degree of substitution = 1.5 – 2.0) is a biopolymer obtained by the reaction of wood pulp with acetic anhydride. It can be injection molded into various shapes and may be used as a filter medium, film base, coating, and articles such as straws, and eyeglass frames. The substance is normally imported and exported in quantities and packaging for industrial use only.

Cellulose acetate (degree of substitution = 1.5 – 2.0) is made from cellulose (wood pulp) and methane. The production process is a reaction of cellulose (from wood pulp) with acetic anhydride, normally using a solvent such as acetic acid and a strong acid such as sulfuric acid as a catalyst.

The degree of substitution (DS) is the number of acetate groups on each cellulose ring. Each cellulose ring has three (3) places where an acetate can be attached, so DS can range from zero to three (0–3). Cellulose diacetate is the general descriptive term used in commerce, primarily to distinguish the substance from cellulose triacetate.

These terms are not intended to quantitatively state that one has a DS = 2.0 and the other a DS = 3.0.

The petition covers cellulose acetate (degree of substitution = 1.5 – 2.0), commonly referred to as cellulose diacetate. Cellulose acetate in this range generally has similar properties. The petition uses the lowest end of the range cellulose acetate DS = 1.5 to demonstrate that >20% of the substance is made from taxable chemicals, and the midpoint cellulose acetate DS = 1.75 to calculate the tax rate for the entire range.

(6) *Process Identified in Petition as Predominant Method of Production of Substance:* Cellulose acetate is derived from cellulose by deconstructing wood pulp into a purified cellulose. The cellulose is reacted with acetic acid and acetic anhydride in the presence of sulfuric acid. It is subjected to a controlled, partial hydrolysis to remove the sulfate and a sufficient number of acetate groups to give the product the desired degree of substitution. The polymer unit is the fundamental repeating structure of cellulose and has three hydroxyl groups which can react to form acetate esters. The most common form of cellulose acetate fiber has an acetate group on approximately two of every three hydroxyls, referred to as cellulose diacetate. In Petitioner's cellulose acetate, the actual substitution is 1.674 acetate/cellulose, a degree of substitution commonly used in US cellulose acetate production.

(7) *Stoichiometric Material Consumption Equation, Based on Process Identified as Predominant Method of Production:*

$$3.5\ CH_4 + 1.75\ O_2 + C_6H_{10}O_5 \rightarrow C_{9.5}H_{13.5}O_{6.75} + 3.50\ H_2 + 1.75\ H_2O$$

(8) *Rate of Tax Calculated by Petitioner Based on Petitioner's Conversion Factors for Taxable Chemicals Used in Production of Substance:*

Calculation of Tax Rate using mid-point cellulose acetate DS = 1.75

Rate of Tax: $1.65 per ton

Conversion Factor: 0.24 methane

(9) *Public Docket Number:* IRS–2023–0010.

**Stephanie Bland,**

*Branch Chief (Passthroughs and Special Industries), IRS Office of Chief Counsel.*

[FR Doc. 2023–05368 Filed 3–15–23; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0919]**

## Agency Information Collection Activity: Servicemembers' Group Life Insurance—Traumatic Injury Protection Application for TSGLI Benefits and TSGLI Appeal Request Form

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before May 15, 2023.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0919'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0919'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

*Title:* Service Members' Group Life Insurance—Traumatic Injury Protection (TSGLI) Application for TSGLI Benefits (SGLV 8600) and TSGLI Appeal Request Form (SGLV 8600a).

*OMB Control Number:* 2900–0919.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The SGLV 8600 form is used by the Department of Veterans Affairs to request information in order to adjudicate TSGLI claims for benefits. The form is filled out by members or former members of the uniformed services who have suffered a traumatic injury while in service, and the uniformed services approve or disapprove the claim. If the uniformed services approve the TSGLI claim, then the insurer for the TSGLI program, The Prudential Insurance Company of America (Prudential), pays the claim. The form is authorized by 38 U.S.C. 1980A and 38 CFR 9.20.

The SGLV 8600a form is used by the Department of Veterans Affairs to request information in order to adjudicate TSGLI appeals for benefits. The form is filled out by members or former members of the uniformed services who have suffered a traumatic injury while in service and had their TSGLI claim disapproved. The form is authorized by 38 U.S.C. 1980A and 38 CFR 9.20.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 190 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* 1 per year.

*Estimated Number of Respondents:* 758.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.*

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Part II

## Department of Homeland Security

Coast Guard

46 CFR Parts 110, 111, 112, et al.

Update to Electrical Engineering Regulations; Final Rule

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 110, 111, 112, and 113**

**[Docket No. USCG–2020–0075]**

**RIN 1625–AC66**

## Update to Electrical Engineering Regulations

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is updating electrical engineering standards that are incorporated by reference and adding acceptable alternative standards. This rule also eliminates several outdated or unnecessarily prescriptive electrical engineering regulations. This regulatory action is consistent with the standards currently used by industry and supports the Coast Guard's maritime safety mission.

**DATES:** This final rule is effective April 17, 2023. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on April 17, 2023. The incorporation by reference of certain other publications listed in the rule was approved by the Director as of April 30, 2015.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0075 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Raymond Martin, Systems Engineering Division, Coast Guard; telephone 202–372–1384, email *Raymond.W.Martin@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents for Preamble

I. Abbreviations
II. Executive Summary
III. Basis, Purpose, and Regulatory History
IV. Discussion of Comments and Changes
V. Discussion of the Rule
A. Revisions to § 110.10–1 Incorporation by Reference
B. Generator Prime Movers
C. Electrical Cable
D. IEC 60092–502 Electrical Installations in Ships—Part 502: Tankers—Special Features
E. Emergency Generator in Port
F. Description of Additional Changes Within Subchapter J
VI. Incorporation by Reference
VII. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards and Incorporation by Reference
M. Environment

### I. Abbreviations

1972 COLREGS International Regulations for Preventing Collisions at Sea, 1972
ABS American Bureau of Shipping
ABYC American Boat and Yacht Council
AC Alternating current
ACP Alternative Compliance Program
ANSI American National Standards Institute
API American Petroleum Institute
ASME American Society of Mechanical Engineers
ASTM ASTM International
BLS Bureau of Labor Statistics
BSEE Bureau of Safety and Environmental Enforcement
CAN Canadian National Standard
CFR Code of Federal Regulations
CG–ENG Coast Guard Office of Design and Engineering Standards
CSA CSA Group, formerly Canadian Standards Association
DC Direct current
DHS Department of Homeland Security
DVTP Design verification test procedure
EMC Electromagnetic compatibility
Ex Designation of explosion-protected electrical apparatus complying with IEC standards
FR Federal Register
GS General Schedule
hp Horsepower
HVSC High voltage shore connection
IACS International Association of Classification Societies
IBR Incorporated by reference
IEC International Electrotechnical Commission
IECEx System IEC System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres
IEEE Institute of Electrical and Electronics Engineers
IMO International Maritime Organization
ISA International Society of Automation
ISO International Organization of Standardization
kV Kilovolt
kW Kilowatt
LED Light-emitting diode
MISLE Marine Information for Safety and Law Enforcement
$mm^2$ Square millimeter
MODU Mobile Offshore Drilling Unit
MOU Mobile Offshore Unit
MSC Marine Safety Center
NAVSEA Naval Sea Systems Command
NEC National Electric Code
NEMA National Electrical Manufacturers Association
NFPA National Fire Protection Association
NPRM Notice of Proposed Rulemaking
NVIC Navigation and Vessel Inspection Circular
OCS Outer Continental Shelf
OCSNCOE Outer Continental Shelf National Center of Expertise
OMB Office of Management and Budget
OSV Offshore Supply Vessel
PSTP Periodic safety test procedure
QFA Qualitative failure analysis
RA Regulatory analysis
§ Section
SOLAS International Convention for Safety of Life at Sea, 1974
U.S.C. United States Code
V Volts

### II. Executive Summary

Subchapter J of title 46 of the Code of Federal Regulations (CFR) contains the electrical engineering regulations and standards applicable to vessels and required shipboard systems regulated under subchapters D, H, I, I–A, K, L, O, Q, R, T, U, and W of title 46. A key component of subchapter J is the standards that are incorporated by reference (IBR) in 46 CFR 110.10–1 and cross-referenced throughout parts 110, 111, 112, and 113. On April 22, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) that contains a detailed description of the background and proposed changes. (86 FR 21440).

This final rule updates prior incorporations by reference in 46 CFR 110.10–1 and all of the sections in subchapter J that reference the updated IBR standards, adds a limited number of alternative standards, and eliminates outdated or unnecessarily prescriptive regulations in subchapter J. More specifically, this rule incorporates more recent editions of many standards, incorporates by reference additional standards for certain topics, and removes IBR standards that are no longer actively used by industry. Due to technological advances, it is necessary to update the current standards to ensure modern technologies are addressed in the regulations. In addition to updating the IBR standards, this rule implements the following four changes to subchapter J.

First, this rule eliminates the prescriptive requirements in 46 CFR 111.12–1(b) and (c) for generator prime movers. In accordance with 46 CFR 58.01–5, these generator prime movers continue to be required to meet standards of the American Bureau of Shipping (ABS) Steel Vessel Rules.

Second, this rule simplifies the electrical cable construction requirements in subpart 111.60 so they are similar to the classification society requirements currently accepted without supplement under the Coast

Guard's Alternate Compliance Program (ACP).

Third, for classifications of hazardous locations in subpart 111.105, this rule adds the International Electrotechnical Commission's (IEC) 60092–502 as an alternative classification. This is an internationally accepted standard, and we are not aware of any notable casualty history attributed to its use as compared to vessels complying with the current applicable U.S. regulations for classification of hazardous locations.

Fourth, this rule amends 46 CFR subpart 112.05 to allow the use of an emergency generator in port. This optional capability to use emergency generators in port is acceptable if a set of additional safeguards, approved by the International Maritime Organization (IMO) in 2005, are provided to ensure the availability of emergency power.

The following table provides an overview of the types of changes and the affected sections.

TABLE 1—TITLE 46 CFR SECTIONS AFFECTED BY THE RULE

| Category | Changes | Affected title 46 CFR sections |
|---|---|---|
| Incorporated by Reference (IBR) Standards. | Editorial | §§ 110.15–1, 111.01–15, 111.05–9, 111.12–3, 111.12–5, 111.12–7, 111.20–15, 111.30–1, 111.30–5, 111.30–19, 111.33–3, 111.33–5, 111.33–11, 111.35–1, 111.40–1, 111.50–3, 111.50–5, 111.50–7, 111.50–9, 111.60–1, 111.60–2, 111.60–6, 111.60–11, 111.60–13, 111.60–19, 111.60–21, 111.70–1, 111.75–17, 111.75–20, 111.99–5, 111.105–3, 111.105–11, 111.105–17, 111.105–19, 111.105–31, 111.105–35, 111.105–40, 111.105–41, 111.105–45, 111.106–3, 111.106–5, 111.106–7, 111.106–13, 111.106–15, 111.107–1, 111.108–1, 111.108–3, 112.50–1, 113.10–7, 113.20–1, 113.25–1, 113.30–25, 113.30–25, 113.30–25, 113.37–10, 113.40–10, 113.65–5. |
| | Updating to more recent edition with changes in technical content. | §§ 110.15–1, 111.12–1, 111.12–7, 111.15–2, 111.51–5, 111.54–1, 111.55–1, 111.59–1, 111.60–5, 111.60–7, 111.60–11, 111.60–13, 111.60–23, 111.70–1, 111.75–18, 111.81–1, 111.105–3, 111.105–11, 111.105–33, 111.105–37, 111.105–39, 111.106–3, 111.107–1, 111.108–3, 113.05–7. |
| | Providing additional options | §§ 110.15–1, 111.01–9, 111.15–10, 111.20–15, 111.30–5, 111.30–19, 111.50–3, 111.53–1, 111.59–1, 111.60–1, 111.60–9, 111.60–13, 111.75–17, 111.75–20, 111.81–1, 111.83–7, 111.87–3, 111.105–3, 111.105–11, 111.105–17, 111.105–28, 111.105–29, 111.105–50, 111.106–3, 111.106–5, 111.108–3, 113.05–7, 113.10–7, 113.20–1, 113.25–11, 113.30–25, 113.37–10, 113.40–10. |
| Generator prime mover alarms and shutdowns. | Removing unique Coast Guard requirements. | § 111.12–1. |
| Electrical cable requirements | Proposing additional option | § 111.60–1. |
| | Removing prescriptive requirements (existing sections). | §§ 111.60–1, 111.60–3, 111.105–50. |
| Classification of hazardous location | Proposing additional options | §§ 111.105–3, 111.105–17, 111.105–28. |
| | Editorial—Harmonizing requirements between subparts. | §§ 111.105–1, 111.105–3, 111.105–11, 111.105–15 (existing), 111.105–17, 111.105–31, 111.106–3, 111.108–3. |
| Emergency generator | Allowing use in port | § 112.05–7. |
| | Revising alarms and shutdowns | § 112.50–1. |
| Editorial changes (Other than IBR standards). | | §§ 110.15–1, 110.25–1, 110.25–3, 111.05–3, 111.05–37, 111.10–1, 111.10–9, 111.12–11, 111.12–13, 111.15–25, 111.15–30, 111.30–5, 111.30–25, 111.30–27, 111.30–29, 111.33–1, 111.33–3, 111.33–5, 111.33–7, 111.33–9, 111.33–11, 111.50–3, 111.51–1, 111.51–2, 111.51–3, 111.51–6, 111.52, 111.60–7, 111.95–1, 111.99–3, 111.103, 111.105–1, 111.105–3, 111.105–5, 11.105–7, 111.105–9, 111.105–15, 111.105–32, 111.107–1, 112.01–20, 112.05–5, 112.15–1, 112.50–1. |

## III. Basis, Purpose, and Regulatory History

The legal basis of this rule is section 1333(d) of Title 43, United States Code (U.S.C.), sections 3306 and 3703 of Title 46 U.S.C., and Department of Homeland Security (DHS) Delegation No. 00170.1, Revision No. 01.2. The provisions of 43 U.S.C. 1333(d) grant the Secretary of the Department in which the Coast Guard is operating the authority to promulgate and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on artificial islands, installations, and other devices. The provisions of 46 U.S.C. 3306(a)(1) authorize the Secretary to prescribe regulations for the design, construction, alteration, repair, and operation of vessels subject to inspection, including equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, and electric installations. Additionally, 46 U.S.C. 3703 grants the Secretary authority to provide for navigation and vessel safety and protect against hazards to life, property, and the marine environment by regulating vessel construction, alteration, repair, maintenance, operation, and equipping. DHS Delegation No. 00170.1, Revision No. 01.2, paragraph (II)(92)(b), delegates these authorities to the Coast Guard.

The purpose of this rule is to update the standards incorporated by reference in 46 CFR subchapter J, which provide detailed specifications for electrical equipment used by vessels. Newly published editions of the international standards referenced in subchapter J address new technologies and changes in best practices. The Office of Management and Budget's (OMB) Circular A–119 states agencies should undertake a review of the standards

incorporated by reference every 3 to 5 years to remain current with technological changes. OMB encourages reducing reliance on unique government standards when an existing voluntary consensus standard would suffice. This rule follows the Circular by incorporating newer editions of industry standards and reducing the reliance on unique Coast Guard standards where industry standards are sufficient.

On April 22, 2021, the Coast Guard published a NPRM titled ''Update to Electrical Engineering Regulations'' (86 FR 21440) requesting comments on the proposed changes implemented by this final rule, including several updates to the standards incorporated by reference. A detailed description of the background and proposed changes are available in that NPRM. *See* 86 FR at 21442–60.

## IV. Discussion of Comments and Changes

During the comment period for the April 22, 2021 NPRM (86 FR 21440), which ended on July 21, 2021, we received 15 comments. Several commenters expressed their support for the Coast Guard updating the standards incorporated by reference to newer editions and some confirmed they use them in current practice. The comments also offered us feedback on specific changes to the electrical engineering requirements and standards we proposed to incorporate by reference. The comments can be viewed in the docket following the instructions in the **ADDRESSES** section of this preamble. We summarize the comments and our responses, starting with general comments and then responding in order of relevant CFR section. Within each CFR section, we describe any changes to the final rule regulatory text from what was proposed in the NPRM.

*General*

A commenter submitted an editorial comment on the list of abbreviations in Section II for ''MOU.'' In this final rule, MOU is now correctly defined as Mobile Offshore Unit.

A commenter requested we update 33 CFR subchapter N to clarify the application of this rulemaking to Outer Continental Shelf (OCS) facilities and stated that, at a minimum, the Coast Guard should update 33 CFR 143.120 to establish the date on which the proposed rule would apply to a new floating OCS facility. Where subchapter N requires compliance with subchapter J, the date of applicability for vessels and facilities will begin 30 days after publication of this final rule, in accordance with the revised § 110.01–1(b). The updated requirements and standards in subchapter J apply to electrical installations contracted for after the effective date of the final rule.

The commenter also noted that the Bureau of Safety and Environmental Enforcement (BSEE) in the Department of the Interior is working on a regulatory update to incorporate more modern industry standards and recommended the Coast Guard engage with BSEE to ensure that both regulatory efforts are aligned, as the agencies propose to incorporate different revisions of the same industry standard in at least two cases. The Coast Guard and BSEE have a shared mission of ensuring safety on the OCS. We work closely together to ensure our requirements are not in conflict with each other, even if we use different revisions of the same standard. Because this final rule is not adding any new requirements for vessel owners and operators, it will not cause any conflicts with BSEE requirements. Any specific concerns can be addressed to either the Coast Guard's Eighth District Outer Continental Shelf Division staff (website: *https://www.atlanticarea.uscg.mil/D8/OCS/*) or the Coast Guard's Outer Continental Shelf National Center of Expertise (OCSNCOE) (website: *https://www.dco.uscg.mil/OCSNCOE/*).

Two commenters requested that we clarify the applicability of subchapter J to Floating Production Units (FPUs), as the Coast Guard Office of Design and Engineering Standards' (CG–ENG) relevant policy letter, CG–ENG Policy Letter 01–13,[1] only applies to classed FPUs rather than all FPUs in service. Similarly, a commenter requested that the Coast Guard clarify the applicability of subchapter J to floating OCS facilities, as the application of the subchapter has led to many requests for equivalencies and alternatives for a class of installations that may not technically be vessels. The comment stated that the Coast Guard should act on the National Offshore Safety Advisory Committee's recommendation that the Coast Guard issue a task statement to evaluate the suitability of subchapters F and J for floating OCS facilities. These requests are outside the scope of this rulemaking, which focuses on updating the electrical engineering standards set out in subchapter J but not further amending the applicability of subchapter J. Nevertheless, we have shared them with the appropriate Coast Guard offices. We encourage questions regarding the applicable regulations for floating OCS facilities to be sent to either the Coast Guard's Eighth District Outer Continental Shelf Division Staff (website: *https://www.atlanticarea.uscg.mil/D8/OCS/*) or OCSNCOE (website: *https://www.dco.uscg.mil/OCSNCOE/*).

*Subpart 110.01—Applicability*

§ 110.01–1 General

We received requests for information on the implementation dates for the revised regulations. In response and to provide greater clarity for the public, this final rule includes an amendment to § 110.01–1(b) that explains the effective date of the requirements in this rule. The requirements implemented in this final rule will be effective 30 days after the publication of this final rule. Paragraph (b) will also clarify that subchapter J applies only to electrical installations contracted for after the effective date of this final rule. Existing paragraph (c) of this section will continue to allow a vessel's electrical installations to meet the subchapter J regulations in place when those systems were initially installed. According to existing 46 CFR 110.01–3(a), repairs and replacements in kind must comply with either the regulations in this subchapter or those in effect when the vessel was built. Per § 110.01–3(b), alterations and modifications, such as re-engining, re-powering, upgrading of the main propulsion control system, or replacing extensive amounts of cabling, must comply with the regulations in this subchapter, including updates implemented by this final rule. Per existing § 110.01–1(c), all electrical systems installed or under Coast Guard review prior to this date may meet the regulations in place at the time of installation or submittal to the Coast Guard.

*Subpart 110.10—Reference Specifications, Standards, and Codes*

§ 110.10–1 Incorporation by Reference

We received the following comments in regard to our update of the technical standards incorporated by reference in subchapter J in § 110.10–1.

Several commenters suggested incorporating by reference newer editions than we had proposed to incorporate in § 110.10–1. Because of the frequent release of new editions, and the time necessary to evaluate them and propose their incorporation, it is often impractical to incorporate standards or new editions that publish after we issue our NPRM. Instead, the Coast Guard considered whether the standards proposed in the NPRM are still

[1] *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/Design%20and%20Engineering%20Standards/docs/CG-ENG%20PolicyLetter%2001-13.pdf.*

sufficient and relevant to electrical engineering practices at the time of this final rule, even if a newer edition is available. We determined that the editions proposed in the NPRM are still sufficient and relevant.

Several commenters requested incorporating by reference different standards than are referenced in § 110.10–1 or proposed in the NPRM. The suggestions included standards and codes for alternative propulsion fuels; inspection, maintenance, and repair of equipment in hazardous locations; and hazardous location equipment directories or dossiers. These topics are not currently addressed in subchapter J. Including them at this stage would impose new regulatory requirements on vessels and facilities. This rule is intended to update the existing regulations in subchapter J and result in quantitative and qualitative savings for vessel owners. For this reason, standards for topics not currently addressed in subchapter J are outside the scope of this final rule. We may consider some of these standards in the future for incorporation by reference following a thorough technical analysis of the standards as well as their potential costs and benefits. Further, proposals for new requirements on topics not already included in subchapter J would be given additional public notice and opportunity for comment.

Additionally, we received specific comments on the following standards we proposed for incorporation by reference.

*American National Standards Institute (ANSI)/UL standards:* A commenter requested that we refer to the UL standards as ANSI/UL standards. In many of the regulatory text sections we do refer to such standards as ANSI/UL standards, but we do not do so in the IBR section, § 110.10–1. In that IBR section, we are required to list the standard name exactly as it appears on the cover of the standard.

The commenter also noted that many ANSI/UL standards related to hazardous locations replaced similar ISA standards, and suggested the UL standards should be referenced throughout the CFR. We agree with listing the ANSI/UL standards in addition to where we proposed to include the ANSI/ISA standard because of their similarities in requirements and options. In the NPRM we proposed to incorporate ANSI/ISA 12.12.01 (2015). In this final rule we are also adding ANSI/ISA–RP12.06.01 (2003) because it superseded a previously incorporated standard we removed, ISA RP 12.6 (1995). These two are the only ANSI/ISA standards that will be incorporated by reference in subchapter J and both are active standards. Where the ANSI/ISA series of standards are referenced in §§ 111.105–3(b)(2), 111.106–3(b)(2), and 111.108–3(b)(2), this final rule adds the ANSI/UL series as an option in those sections as well.

*IEEE 100 (2000):* A commenter noted that the Institute of Electrical and Electronics Engineers (IEEE) withdrew the standard IEEE 100 (2000). IEEE 100 (2000) is only referenced in § 110.15–1 regarding electrical and electronic term definitions. We have decided to retain it in subchapter J because the definitions are still relevant. We have confirmed that the standard is still available for the public to purchase despite IEEE withdrawing it. We acknowledge that a revision to the standard is underway and we will consider updating references to this standard in the future.

*IEEE 1580 (2010):* A commenter suggested we incorporate the 2018 edition. The 2018 edition was still in the draft stage when we published the NPRM in April 2021, and we were not able to propose draft standards for incorporation by reference. The IEEE board approved the IEEE 1580 (2021) on November 9, 2021, and published it on March 23, 2022, both dates after the comment period for the NPRM closed. The IEEE 1580 (2021) standard superseded the 2010 version. IEEE 1580 provides recommended practice for marine cable use on shipboard and fixed or floating facilities, and the 2021 edition addresses changes in changes in technology and revisions to referenced standards since 2010. The Coast Guard has decided that the 2010 version is still sufficient and relevant for marine cables at the time of this final rule. However, the public can submit equivalency requests for the 2021 edition to the Marine Safety Center (MSC) in accordance with § 110.20–1.

*IEC 60092–302:1997:* A commenter noted that this standard was superseded by IEC 60092–303–2, Electrical installations in ships—Part 302–2: Low voltage switchgear and controlgear assemblies—Marine power, published in 2019. We have decided to retain the 1997 edition until we can thoroughly review the 2019 edition. However, we may consider switchgear meeting the standards in IEC 60092–302–2:2019 under the equivalency provisions of § 110.20–1.

*ISA RP 12.6:1995:* We proposed in the NPRM to remove ISA RP 12.6 because ISA has withdrawn it. A commenter noted that a new standard, ANSI/ISA RP12.06.01, has superseded ISA RP 12.6. The commenter is correct. Because the two standards are very similar, we are replacing the withdrawn ISA RP 12.6 standard with the new ANSI/ISA RP12.06.01 standard as suggested. This final rule incorporates by reference ANSI/ISA–RP12.06.01:2003 in § 111.105–11. ANSI/ISA–RP12.06.01 is a recommended practice that promotes the uniform installation of intrinsically safe systems in hazardous (classified) locations and clarifies the requirements of Articles 504 and 505 of National Fire Protection Association (NFPA) standard NFPA 70.

*Subpart 110.25—Plan Submittal*

§ 110.25–1 Plans and Information Required for New Construction

A commenter noted that the proposed changes to § 111.105–3 provided the option to select electrical equipment on any single vessel to comply with NFPA 70 Articles 500–504, or NFPA 70 Article 505, or IEC 60092–502, based on either the Division or the Zone method of hazardous location classification. The commenter suggested that we amend the plan requirements for hazardous locations in § 110.25–1 to ensure the classification method is indicated on the plans submitted for review. We agree with this suggestion and are incorporating it into this final rule. The extent and classification of all hazardous locations is already required in the existing § 110.25–1(i) but clearly indicating the method of classification, Division or Zone, is important to ensure appropriate selection of equipment for the hazardous location. In this final rule, we amend § 110.25–1(i) to require that the plans indicate the method of classification of the hazardous locations in addition to the other requirements already included in paragraph (i).

*Subpart 111.10—Power Supply*

§ 111.10–9 Ship's Service Supply Transformers; Two Required

A commenter noted that our proposed revision to the note to § 111.10–09 concerning ship's service transformers appears to contradict the text of § 111.10–09 regarding the number of transformers. We disagree. Section 111.10–3 requires that the shipboard power supply system on self-propelled vessels have at least two electric generating sources. The intent of § 111.10–09 is to continue this requirement by duplicating the number of transformers that are used to supply the ship's service distribution system. As explained in this note, the intent is not to provide duplication of ship's service distribution system circuits after the ship's service switchboard. This is a long-standing position that is explained in Coast Guard guidance, specifically

page 16 of Navigation and Vessel Inspection Circular (NVIC) 2–89, ''Guide for Electrical Installations on Merchant Vessels and Mobile Offshore Units,'' dated August 14, 1989.[2]

*Subpart 111.12—Generator Construction and Circuits*

§ 111.12–11 Generator Protection

Section 111.12–11(g) states that a ship's service generator and its switchboard must be in the same space and states that a control room inside the machinery casing is not considered outside the machinery space. Paragraphs 111.12–11(g)(1) and (2) provide two arrangements that the Coast Guard considers to meet this requirement. In other words, we consider a switchboard room within the machinery space, containing the overcurrent protection on the switchboard, to be satisfactory, regardless of whether there are centralized engineering controls or monitoring in that control room. This rule, which replaces a reference to a ''semiconductor rectifier'' with ''semiconductor converter'' in paragraph (g), does not substantively change these existing provisions. A commenter asked if a control room that is an air-conditioned switchboard room with generator controls on a switchboard, but without centralized engineering control and monitoring, is an acceptable control room. This question is beyond the scope of this rulemaking, but questions regarding compliance with Subchapter J may be submitted to the MSC.

*Subpart 111.15—Storage Batteries and Battery Chargers: Construction and Installation*

Two commenters suggested we consider incorporating by reference IEEE 1187–2013, ''IEEE Recommended Practice for Installation Design and Installation of Valve-Regulated Lead Acid Batteries for Stationary Applications.'' The commenters noted that although FPUs are not stationary, they are not ocean-going vessels either. The commenters also noted because FPUs do not have the range of motions of a vessel, they use valve-regulated lead acid batteries (as governed by IEEE 1187–2013) rather than the vented lead-acid batteries covered in the NPRM's updates to subchapter J. We understand the unique characteristics of FPUs may require additional options and guidance. Specifically, 33 CFR 143.120(b) and CG–ENG Policy Letter 01–13 allow alternate proposals for floating OCS facilities. System designers may submit applications to the MSC demonstrating that a system using valve-regulated lead acid batteries, as governed by IEEE 1187–2013, provides an equivalent level of safety in accordance with § 110.20–1. We understand this IBR suggestion and may consider it in a future rulemaking. Further, we find that we cannot include this suggestion in this final rule because, in order to add the standard and those additional requirements, we would prefer to conduct an additional analysis of alternatives and provide the public opportunity to review and comment on its addition.

*Subpart 111.30—Switchboards*

§ 111.30–5 Construction

In the NPRM, we proposed replacing the existing reference to section 8.3 of IEEE 45–2002 in § 111.30–5(a)(1) with a reference to section 6 of the more recent IEEE 45.7–2012. A commenter noted section 6.3.3 of IEEE 45.7 requires a steering gear breaker trip set to not less than 200 percent of locked rotor current. This conflicts with § 58.25–55(a)(2), which requires a trip set point between 175 and 200 percent of locked rotor current. We agree that the change we proposed in the NPRM would present an unintended conflict with other existing regulations. The intent of § 111.30–5 is to address switchboard construction, not overcurrent protection for specific systems, so when reviewing IEEE 45.7 we did not observe that the standard added a requirement for the steering gear circuit overcurrent protection. We did not intend the NPRM to propose a change to the existing requirements for steering gear circuit overcurrent protection. For this reason, in § 111.30–5(a)(1) of this final rule, we are incorporating section 6 of IEEE 45.7–2012, excluding section 6.3.3.

A commenter asked for clarification of the proposed § 111.30–5(c) regarding switchboard construction, which stated that ''[t]he interchangeability and compatibility of components complying with both IEEE and IEC cannot be assumed.'' We agree this proposed paragraph (c) could have caused confusion. Our intent in this paragraph was to discourage the mixing of acceptable standards in a manner that could result in a potentially unsafe switchboard. We recognize that complying with and enforcing this relatively vague requirement would be difficult, and we have accordingly deleted it in this final rule. Switchboards should be constructed in accordance with the standards incorporated by reference in subpart 111.30.

§ 111.30–19 Buses and Wiring

In the NPRM, we proposed replacing the existing reference to section 7.10 of IEEE 45–1998 in § 111.30–19(a)(1) with a reference to section 5.10 of the more recent IEEE 45.7–2012. A commenter noted section 5.10 of IEEE 45.7–2012 appears to have less strict requirements for generator bus sizing and could be interpreted to not require sizing to support overload operation of the generator for a sustained period. We disagree. The requirements are very similar, and IEEE 45.7–2012 reflects the latest guidance on bus sizing.

§ 111.30–25 Alternating-Current Ship's Service Switchboards

A commenter suggested that the generator field rheostat (manual voltage controller) currently required by § 111.30–25(c)(1) was of limited value and is not required by other regulatory bodies. We understand this suggestion and may consider it in a future rulemaking. In order to remove the requirement, we would prefer to conduct an additional analysis of alternatives and provide the public opportunity to review and comment on its removal. In the meantime, however, system designers may submit switchboards with alternative instrumentation that provides an equivalent level of safety to the MSC in accordance with § 110.20–1.

*Subpart 111.33—Power Semiconductor Converter Systems*

In the NPRM, we proposed changing the heading of subpart 111.33 from Power Semiconductor Rectifier Systems to Power Semiconductor Converter Systems and changing references to rectifiers to converters. This proposed change aligned with general industry practice of using the term converter as it is more general than rectifier. This subpart applies to rectifiers (alternating current (AC) to direct current (DC)), inverters (DC to AC), and other power converters. Additionally, in the NPRM we proposed updating the standards incorporated by reference in this subpart to more recent editions. A commenter noted that 4.31.19.12 of IEEE 45.2–2011, which would replace 10.20.12 of IEEE 45–2002, covers rectifiers. The commenter is correct in this regard. However, 4.31.19.12 of IEEE 45.2–2011 provides the required nameplate data, and the Coast Guard determined the requirements of this section are also generally applicable to

[2] NVIC 2–89, ''Guide for Electrical Installations on Merchant Vessels and Mobile Offshore Drilling Units,'' is available at *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/1989/n2-89.pdf.*

any power semiconductor converter system.

In addition, in the NPRM, we proposed replacing references throughout subpart J to ''semiconductor rectifier (SCR)'' with references to ''semiconductor converter''. However, upon further review following the NPRM's publication, we realized that some instances of this amendment were inadvertently not included in the amendatory language for the NPRM. We have updated the amendatory language in this final rule to include these missed instances of ''converter'' in this final rule at §§ 111.33–1 and 111.33–3(b).

*Subpart 111.40—Panelboards*

§ 111.40–1 Panelboard Standard

A commenter noted Section 9.10 of IEEE 45.1, proposed for incorporation by reference in the NPRM, includes multiple sub-sections but only subsection 9.10.1 is directly applicable to panelboards. The commenter suggested updating the reference to only include this subsection. We agree, and in the interest of greater precision we revise § 111.40–1 in this rule to only reference subsection 9.10.1.

*Subpart 111.50—Overcurrent Protection*

§ 111.50–3 Protection of Conductors

A commenter noted that currently neither § 111.50–3 nor § 111.20–15 clearly addresses NFPA 70—National Electric Code (NEC) requirements for transformer secondary conductor protection and suggested that § 111.50–3 should include or cite to NEC 240.21(C)(1) requirements. NEC 240.21(C)(1) explicitly states that primary overcurrent protection is insufficient to protect secondary conductors of delta-wye transformers. In the NPRM, we did not propose substantive changes to these two sections beyond incorporating the more recent editions of the standards. Adding the requirements at NEC 240.21(C)(1) to § 111.50–3 would require additional analysis and opportunity for the public to review and comment. Nevertheless, we may consider incorporating NEC Article 240, which provides guidance for transformer conductor overcurrent protection, in § 111.50–3 in the future.

A commenter also said that neither § 111.50–3 nor § 58.25 currently address DC steering gear motors. The commenter also said that both §§ 111.50–3 and 58.25 are silent on the use of fuses for overcurrent protection in these systems. The commenter suggested that we remove the cross-reference to 46 CFR 58.25 and revise § 111.50–3 to align with ABS SVR 4–8–2/9.17.5 standards on DC steering gear motors and prohibiting fuses. We disagree with the suggested change. Paragraph 58.25–55(a)(1) specifically requires DC steering gear motors to be protected from overcurrent by a circuit breaker at the switchboard. This section does not list fuses as an acceptable means of overcurrent protection. Vessel owners and operators must ensure DC steering gear motors are protected from overcurrent by circuit breakers unless an equivalent arrangement is approved by the MSC in accordance with § 110.20–1. We did not propose substantive changes to these two sections in the NPRM beyond incorporating the more recent editions of the standards already incorporated by reference in § 111.50–3. However, we will consider updating our steering gear motor regulations in the future following a review of the latest advances in steering gear power and control systems.

*Subpart 111.51—Coordination of Overcurrent Protection Devices*

§§ 111.51–1 Purpose and 111.51–5 Protection of Vital Equipment

In the NPRM, we proposed to revise § 111.51–1 to set out a broad introductory discussion of the requirements for coordination of overcurrent protection devices that is based on the recommendations in IEC 60092–202:2016 and not substantively different from the existing § 111.51–1 that it replaced. A commenter noted the term ''continuity of service'' as used in the proposed revisions to § 111.51–1, as well as in the current text of § 111.51–1, is not defined and could be interpreted in a number of ways. Additionally, the same commenter also recommended editing § 111.51–5(b)(2) to allow for cases where multiple protective devices are directly in series due to the arrangement of the power system and vendor equipment supply or requirements for disconnecting device. Alternatively, they suggested we define that a protective device refers to a set of one or more protective devices which protect the same segment of the electrical system. The commenter was concerned the section could be interpreted to require explicit coordination between protective devices within the same feeder or branch circuit.

It is not the intent of this final rule to substantively alter our existing regulations for coordination of overcurrent protection devices. Continuity of service is defined in IEC 60092–202:2016 as a ''condition where, after a fault in a circuit has been cleared, the supply to the healthy circuits is re-established.'' More importantly, the goal of overcurrent protection coordination is to minimize the impact of short circuits on vital equipment as explained in §§ 111.51–1 and 111.51–5. If multiple protective devices are in series, it is incumbent on the system designer to demonstrate the devices satisfy the intent of overcurrent protection coordination. Additionally, proposing a unique definition for protective devices is not a preferred option where the definition is widely used and defined by a standard. We encourage the use of established industry standards and definitions. If there are any vessel or system specific arrangements being proposed for Coast Guard certificated vessels, their equivalency with this subpart can be demonstrated to the MSC in accordance with § 110.20–1. We made no changes from the proposed rule in § 111.51–5.

*Subpart 111.60—Wiring Materials and Methods*

§ 111.60–3 Cable Application (Existing)

In the NPRM, we proposed to delete this section because it is unnecessarily prescriptive. In its place, we proposed that regulated entities would consult the current and proposed cable construction standards in proposed new § 111.60–1 for the application of specific types of cable. A commenter expressed concern that cable for specialized applications, such as scientific research instruments and passenger ferry Wi-Fi networks, is sometimes not available or cost-prohibitive to meet the fire test requirements. The commenter recommended retaining § 111.60–3 largely as written. Based on our research for available products, the Coast Guard has determined that common types of cables that comply with the standards in § 111.60–1 are available and provide the safest option for U.S. vessels. Additionally, our research indicates the cost will be comparable to all other cable suitable for marine applications. Accordingly, this final rule retains the amendment from the NPRM to remove § 111.60–3. We will consider other cable on a case-by-case basis in accordance with the equivalency provisions of § 110.20–1.

§ 111.60–4 Minimum Cable Conductor Size

A commenter noted we did not propose changing the required minimum conductor size in this section of 0.82 square millimeters ($mm^2$) and 2.1 $mm^2$ for control and power cable, respectively. The commenter explained that vessels inspected under the ACP

have a lesser conductor size requirement. For example, ABS MVR 4–8–2/7.7.2 allows smaller minimum conductor sizes of 0.5 $mm^2$ and 1.5 $mm^2$ for control and power cable respectively. (The metric dimensions given in this section are metric conversions of the standard American Wire Gauge sizes rather than standard metric wire sizes suggested by this commenter and used in the ABS rule.) The commenter recommended we decrease the metric size requirements to match the requirements applicable to ACP vessels because they believed doing so would eliminate the need to excessively oversize metric cable to meet rules that are currently written to align with common AWG sizes. Vessels enrolled in the ACP comply with a comprehensive set of engineering standards and an inspection regime that collectively provide a level of safety equivalent to complying solely with the regulations in 46 CFR even though the requirements are not identical. As the commenter noted, we did not propose substantive changes to this section in the NPRM and do not intend to change it in the final rule. Allowing smaller minimum conductor sizes on all vessels regulated by subchapter J is a less stringent requirement that we may consider in the future following additional analysis and opportunity for public comment. Presently, the metric conductor size requirements in this section are still considered reasonable and safe, and we made no additional changes based on this recommendation.

§ 111.60–6 Fiber Optic Cable (Existing)

In the NPRM, we proposed to remove current § 111.60–6 because fiber optic cable that complies with § 111.60–1 is now available. A commenter contended that such fiber optic cable is not readily available. We agree that it may be difficult to find fiber optic cable to meet the standards in § 111.60–1 and have decided to forgo the proposed change to remove §§ 111.60–2 and 111.60–6. This final rule does not remove existing §§ 111.60–2 and 111.60–6, or the cross references to §§ 111.60–2 and 111.60–6 within the applicable list of standards incorporated by reference in §§ 110.10–1(j)(14), 110.10–1(q)(23), 110.10–1(k)(34), 110.10–1(k)(35), and 110.10–1(j)(13), where they were already included. However, in this final rule we have updated the standards mentioned within §§ 111.60–2 and 111.60–6 to conform with updates to standards incorporated by reference within this subchapter.

§ 111.60–11 Wire

A commenter noted the reference to Section 5.7 of IEEE 45.8–2016 in § 111.60–11 and pointed out that this section does not address wire. We agree and have removed the reference to Section 5.7 of IEEE 45.8 from this section because it is not related to the topic of § 111.60–11. The commenter also suggested that wire constructed to a recognized commercial standard or military specification MIL–W–16878 or MIL–W–22759, with particular attention to the effects of vibration, moisture, ambient temperature, and other adverse conditions such as contaminants and oils that may be present should be acceptable. We agree in principle. Section 111.60–11(c) provides that wire must the requirements set out in one of three standards for wire and concludes with ''or equivalent standard.'' System designers choosing an alternative standard they believe equivalent, such as that described by the commenter, should discuss it with the MSC. There are too many relevant standards to incorporate them all. Instead, we have decided to offer three standards as guidance for acceptable wire requirements. We will consider equivalency requests in addition to the standards we incorporate by reference.

*Subpart 111.70—Motor Circuits, Controllers, and Protection*

§ 111.70–3 Motor Controllers and Motor-Control Centers

A commenter noted that the proposed regulatory text in the NPRM implied that we were making changes to §§ 111.70–3(c)(2) and (d)(1)(v) but the proposed regulatory text as presented in the NPRM was unchanged from existing regulatory text. This observation is correct. We erroneously included these sections in the NPRM's amendatory instructions, but we did not actually propose any changes. No changes were intended. This final rule does not include any amendments to the regulatory text at §§ 111.70–3(c)(2) and (d)(1)(v).

*Subpart 111.75—Lighting Circuits and Protection*

§ 111.75–17 Navigation Lights

In the NPRM, we proposed incorporating EN 14744 in § 111.75–17 as an additional alternative standard for navigation lights. Currently, UL 1104 is the only standard incorporated by reference in § 111.75–17. One commenter suggested that, since UL 1104 is no longer supported by UL and does not address electromagnetic interference or light-emitting diode (LED) light lifecycle degradation, it should be removed from this section and EN 14744 should be adopted as the sole standard for all navigation lights, including AC- and DC-powered lights, incandescent and non-incandescent lights, lights on all vessel types and sizes, and lights on inspected and non-inspected vessels.

We disagree with the suggestion to remove UL 1104. Several years ago, UL transferred responsibility for the maintenance of UL 1104 to the American Boat and Yacht Council (ABYC). Prior to this rulemaking, UL 1104 was the only standard for the construction and testing of navigation lights incorporated by reference in subchapter J, and it is currently being used by several navigation light manufacturers. Lights manufactured and certified to UL 1104 meet the current luminous intensity and colorimetric requirements of the International Regulations for Preventing Collisions at Sea, 1972 (1972 COLREGS). Additionally, the environmental performance requirements contained in UL 1104 are similar in intent to those in EN 14744. For these reasons, we are not removing UL 1104 at this time.

Additionally, we cannot incorporate by reference EN 14744 for all light and vessel types as suggested. The scope of this rule is limited to subchapter J. The navigation light requirements in subchapter J generally apply to larger, inspected commercial vessels. The requirements for navigation lights on certain smaller, inspected commercial vessels, uninspected commercial vessels, and recreational vessels are contained in other subparts of the CFR. We did not propose amendments to those subparts in the NPRM, and because of this we cannot incorporate by reference EN 14744 for all light and vessel types.

Since UL transferred UL 1104 to ABYC we have worked with ABYC and other navigation light stakeholders to develop an updated navigation light standard to replace UL 1104. This standard, ABYC C–5, Construction and Testing of Electric Navigation Lights, published in July 2021, too late for inclusion in the NPRM and after the NPRM comment period closed. ABYC C–5 is applicable to all light and vessel types and addresses both electromagnetic interference and LED light lifecycle degradation. We may address the incorporation by reference of ABYC C–5, a broader incorporation by reference of EN 14744, other potential navigation light standards, and navigation light requirements for all vessel types in a future, broader, Coast Guard proposal.

*Subpart 111.83—Shore Connection Boxes*

§ 111.83–7 High Voltage Shore Connection

A commenter noted that proposed new § 111.83–7 only applies the requirements of IEC/IEEE 80005–1:2019 to vessels required by law to have high voltage shore connections (HVSCs), and recommended removing that limitation. The Coast Guard agrees the proposed limitation to only vessels that were required by state or local law to connect to HVSC would have created unnecessary confusion. This section does not require compliance with IEC/IEEE 80005–1:2019; it is a recommendation for best practices and additional safety. For vessels that connect to electrical shore power using an HVSC, we recommend complying with IEC/IEEE 80005–1:2019 regardless of whether it is required by a state or local jurisdiction. For this reason, we have removed the limitation that § 111.83–7 would only apply to vessels required by law to have shore power and instead provide this section as a recommended standard for all vessels that use an HVSC.

Another commenter requested that the ABS Guide for High Voltage Shore Connection be considered for incorporation by reference as an alternative standard for HVSCs. We have not incorporated this guide. IEC/IEEE 80005–1:2019, which is incorporated by reference in the new § 111.83–7, is an international voluntary consensus standard that provides an acceptable baseline recommendation, while the ABS Guide for High Voltage Shore Connection is a classification society guide. Although the ABS Guide for High Voltage Shore Connection may be a satisfactory alternative for consideration in an equivalency request, it is not necessary to list a classification society guide in the regulations when an international voluntary consensus standard is available. The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs Federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical.

*Subpart 111.99—Fire Door Holding and Release Systems*

§ 111.99–5 General

The NPRM proposed updating the existing citation in § 111.99–5 to reflect a more current edition of the International Convention for Safety of Life at Sea, 1974 (SOLAS), Sixth edition. A commenter noted that SOLAS II–2/9.4.1.1.5 includes a number of paragraphs that include requirements for safe functioning of the fire door release system. The commenter suggested that we expand § 111.99–5 to include these additional paragraphs in II–2/9.4.1.1.5 beyond that which was referenced in the NPRM. We understand that SOLAS contains additional requirements for fire doors. Vessels that comply with SOLAS must meet these requirements, but requiring all vessels that must comply with Subchapter J's requirements meet these standards would place regulatory requirements on these vessels without providing appropriate opportunity for public notice and comment. Accordingly, we did not incorporate this suggestion at this time.

*Subpart 111.105—Hazardous Locations*

One commenter suggested we remove the Division system for classification of hazardous locations from subchapter J. The commenter said that compliance would be simpler if only the Zone system was accepted. We disagree. This is an established system used extensively in North America and removing the Division system would adversely affect many equipment manufacturers.

Another commenter requested we incorporate by reference American Petroleum Institute (API) standards API RP 14FZ and API RP 500, and IEEE 1187–2013. As we discussed in regard to a comment on subpart 111.15, we are not inclined to incorporate IEEE 1187 because it contains additional requirements beyond what we believe necessary to incorporate at this time. API RP 14FZ and API RP 500 are already incorporated or will be incorporated in a very limited scope, which we have determined to be a reasonable level at which to require these standards.

§ 111.105–3 General Requirements and System Integrity

The intent of § 111.105–3 is to ensure all electrical equipment installed in a hazardous location is appropriate for the location. One commenter suggested that acceptable electrical components may be combined in a manner that may produce an assembly that can ignite a hazardous atmosphere and that this may not be caught in after-installation inspections. The commenter suggested several standards to address this concern, such as ANSI/UL 698A, IEC TS 60079–46, ANSI/UL 508A, and UL 2011. Additionally, the commenter suggested that this rule address the importance of assembly verification throughout the equipment lifecycle from design to installation. Assembly verification throughout the process is an important issue for system designers, but it is outside the scope of this rulemaking. Applicants must include assemblies of electrical equipment in plans and installation details in their request for Coast Guard review in accordance with §§ 110.25–1(i) and (j). The Coast Guard then reviews the plans and installation details to ensure safe assembly in accordance with these standards.

Several commenters requested clarification of the phrase ''and not in combination in a manner that will compromise system integrity or safety,'' proposed in the NPRM for new § 111.105–3(c). Additionally, commenters suggested that we reorganize § 111.105–3 to better separate equipment selection standards and installation requirements. Since its initial adoption in 1996, our intentions in § 111.105–5 (which we had proposed to move into § 111.105–3) have been to ensure that proper and safe equipment is used in hazardous locations and to allow safe combinations of equipment complying with either NFPA 70 (Division system) or the IEC 60079 series of standards (Zone system).[3] The phrase in question, located in § 111.105–3(c) in this final rule, ensures such systems are carefully designed because the methods of classification of hazardous locations can differ. When a location is subject to two classification systems, it may have two different classifications. For example, a specific cargo oil tank may be classified as a Class I, Division 1, location under one system and Zone 0 under the other. In this example, electrical equipment approved for Class I, Division 1 (intrinsically safe) or approved for Zone 0 (ia) may be installed in the cargo tank.

In the NPRM we proposed to combine §§ 111.105–3 and 111.105–5 into § 111.105–3 to be consistent with §§ 111.106–3 and 111.108–3. This created confusion among commenters, and we have decided to revise our approach to proposed § 111.105–3. Instead, we have renumbered the proposed § 111.105–7 as § 111.105–3 and amended it to be more consistent with §§ 111.106–3 and 111.108–3 by adding notes after new paragraphs 111.105–3(b)(1) and (b)(2). This change better clarifies the appropriate guidance for using Zone equipment in Division-designated spaces or using Division equipment in Zone-designated spaces.

[3] ''Electrical Engineering Requirements for Merchant Vessels'' interim rule (61 FR 28284, June 4, 1996).

Additionally, as mentioned earlier, we will also require in § 110.25–1(i) that applicants clearly indicate the hazardous location method of classification, Division or Zone, in their plan submissions.

One comment suggested that it was more appropriate to incorporate by reference Clause 7 rather than Clause 6 of IEC 60092–502 in § 111.105–3(b). We disagree. Clause 6 concerns the requirements of electrical equipment in hazardous areas while Clause 7 addresses installation of electrical equipment in hazardous areas. The intent of § 111.105–3(b) is to prescribe the standards for electrical equipment intended for hazardous areas (locations), not specifically installation. This is the same as § 111.108(a)(3). It was not our goal for the proposed modifications to § 111.105 to substantively change the standards fundamental to equipment selection. In the existing regulations, in accordance with § 111.108–1(b), all vessels could use the standards specified in 46 CFR Subpart § 111.108. Revisions to § 111.105 are intended to make this clearer.

One comment noted that for electrical installations on mobile and fixed offshore units the proposed requirements only reference Clause 8 of IEC 61892–7. The commenter also noted that Clause 8 excludes guidance on cables and conduits and Clause 9 of IEC 61892–7 is for cables and wiring systems. This is correct. We intentionally did not reference Clause 9 for cables and wiring systems. Prior to this rulemaking, we previously incorporated Clause 6 of IEC 61892–7:2007. Clause 6 addresses electrical equipment in hazardous areas, but not wiring or cable systems. We proposed to incorporate by reference the more recent Clause 8 of IEC 61892–7:2019. Clause 8 similarly addresses electric equipment by referencing Clause 5 of IEC 60079–14:2013. It was not our intent to add wiring and cabling system requirements to § 111.105–3. The requirements for wiring and cable systems in hazardous locations are in § 111.105–17.

One commenter noted that both Clauses 8 and 9 of IEC 61892–7 reference IEC 60079–14, Electrical installations design, selection, and erection, and suggested that we should incorporate IEC 60079–14 by reference. We disagree with the suggestion. Since we incorporated by reference IEC 61892–7:2007 in 46 CFR subchapter J, the standard has evolved and been updated twice. In 2014, the IEC 61892–7 requirements for installations in hazardous area were rewritten based on the requirements of IEC 60079–14:2013. In the latest edition, 2019, IEC 61892–7 was completely rewritten and references are, to the extent possible, made to IEC 60079–14:2013 and to other relevant standards. At this time our intent is to only apply IEC 60092–14:2013 as it is referenced in Clause 8 of IEC 618792–7:2019. We describe Clause 8 in the previous paragraph. Despite the commenter mentioning Clause 9 of IEC 61892–7:2019, we did not propose to incorporate it in the NPRM. We already address the cable and wiring requirements using standards we deem sufficient in § 111.105–17. It is commonplace for standards to reference other standards, but incorporating every standard simply because it is cross-referenced would cause us to incorporate more standards than are reasonably necessary to convey the relevant requirements. A broader incorporation by reference of IEC 61892–7:2019 would require additional regulatory analysis and an additional opportunity for the public to review and comment.

§ 111.105–28 Internal Combustion Engines

A commenter said that § 111.105–28 states ''Internal combustion engines installed in Class I Divisions 1 and 2 (Zones 1 and 2),'' but there is no direct equivalency between Class I Division 1 and Zone 1 as Class I Division 1 covers equipment in Zone 0 as well. The commenter suggested that references to Class I Divisions (1 and 2) and Zones be removed from the section. We disagree with this suggestion. Currently, § 111.108–1(b) allows U.S. Mobile Offshore Drilling Units (MODUs), floating OCS facilities, and vessels other than Offshore Supply Vessels (OSVs) regulated under 46 CFR subchapter L and U.S. tank vessels that carry flammable and combustible cargoes, to comply with ASTM F2876 per § 111.108–3(g). Our purpose in changing § 111.105 is to improve the consistency of the regulations related to hazardous areas in §§ 111.105, 111.106, and 111.108. It does not change the requirements. Although we agree with the commenter's assertion that Class I Division I may also cover equipment in IEC Zone 0, internal combustion engine installations are generally prohibited for use in shipboard IEC Zone 0 areas.

A commenter noted that engines may be certified by the manufacturer to ASTM F2876 and its maximum surface temperature requirements. The commenter also noted that ASTM F2876 does not address different testing requirements from Zone 1 and Zone 2 applications. The primary purpose of ASTM F2876 is determining the maximum operating temperature of the engine, in order to ascertain the suitability of the engine installation in hazardous areas associated with the autoignition temperature of various flammable cargoes. An independent laboratory must certify all electrical equipment associated with the engine installation. Although ASTM F2876 contains other requirements in addition to temperature measurement, the references to EN 1834–1 within ASTM F2876 are recommendations only.

§ 111.105–50 Alternative Standard to the Classification of Hazardous Locations Requirements of This Subchapter

A commenter noted we proposed in the NPRM to incorporate IEC 60092–502 without also incorporating the Coast Guard's interpretations and additional requirements, issued in April 2009, which we maintain on the Coast Guard's website for the ACP.[4] The commenter did not offer an opinion or recommendation on this proposal, but asked us to clarify if these requirements in the IEC 60092–502 Supplement would be obsolete when we incorporate IEC 60092–502:1999. The intent of these interpretations and supplemental requirements was for vessels in the ACP to achieve equivalency with the regulations in 46 CFR. The Coast Guard has determined that IEC 60092–502, even without these interpretations and supplemental requirements, is a satisfactory alternative method for the classification of hazardous locations. When using IEC 60092–502 to classify hazardous locations, vessels no longer need to comply with our IEC 60092–502 Supplement issued in April 2009.

A commenter said that our proposed incorporation by reference of IEC 60092–502:1999 as an alternative method for classification of hazardous location, while also referencing §§ 32.60–20(c) and 38.20–10, resulted in conflicting ventilation requirements. We agree that they can be conflicting. Unfortunately, existing U.S. and international requirements for cargo pump room ventilation are different. Sections 32.60–20(c) and 38.20–10 both require an air change every 3 minutes (20 air changes per hour) while Clause 8.1.3 of IEC 60092–502:1999 requires an air change every 2 minutes (30 air changes per hour). We intend for IEC 60092–502:1999 to be an alternative to existing regulations. At this time we are not changing 46 CFR subchapter D, including §§ 32.60–20(c) and 38.20–10,

[4] See U.S. Coast Guard Interpretation: IEC 60092–502:1999 Supplement at *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/Alternate%20Compliance%20Program/iec60092-502sup.pdf.*

nor modifying IEC 60092–502. System designers choosing to use IEC 60092–502:1999 for classification of hazardous locations must follow the standard. However, we are revising § 111.105–50(c) from what was proposed in the NPRM to clearly state when 30 air changes per hour are required. Specifically, if IEC 60092–502:1999 is used, cargo handling rooms and other spaces where hazardous location classification is dependent upon ventilation must have mechanical ventilation capable of at least 30 air changes per hour, based upon the gross volume of the space.

*Subpart 112.05—General*

§ 112.05–5 Emergency Power Source

Section 112.05–5(a) requires that an emergency power source have the capacity to simultaneously supply all loads connected to it. To further clarify this, in the NPRM we suggested adding the phrase ''at a unity (1.0) service factor.'' This simply means the emergency power source must be sufficiently sized to operate all loads at their full rated capacity.

A commenter requested we modify the required capacity of the emergency power source with a phrase such as ''with due regard being paid to such services as may have to be operated simultaneously.'' They stated that their proposed change would allow use of emergency generators that are more closely sized to the loads that would be needed in an emergency. We disagree with the commenter's proposed change. It would change the intent of the existing regulation by allowing more discretion and ambiguity than a specific load capacity measurement. In the interest of providing a clear discernable standard that we considered safe, we will proceed with requiring the unity 1.0 service factor as proposed in the NPRM.

In table 1 to § 112.05–5 footnote 2, we are replacing the reference to § 111.93 with a reference to § 58.25–65 because we moved the requirements in § 111.93 to § 58.25–65 in a previous rulemaking (60 FR 24776, May 10, 1995). Although we did not include this amendment in the NPRM, this is a conforming edit that will not have an impact on the existing emergency power requirements.

§ 112.05–7 Use of Emergency Generator in Port

A commenter noted that existing Coast Guard policy regarding in port use of the emergency generator requires that a qualitative failure analysis (QFA), design verification test procedure (DVTP), and a periodic safety test procedure (PSTP) be submitted for review, but the proposed § 112.05–7 did not have this requirement. This is correct. The requirements for these documents are contained in 46 CFR subchapter F Subpart 61.40. Based on this subpart, an emergency generator intended to meet § 112.05–7 for use in port would be required to submit a QFA, DVTP, and PSTP for review. We do not see the need to duplicate this requirement in § 112.05–7.

A commenter said we could require more comprehensive alarms in § 112.05–7(c) and requested that, at a minimum, we consider clarifying the alarms and shutdowns required versus the shutdowns allowed or disallowed. We understand the commenter's intent and request for more specific information, but this regulation provides the baseline requirements. We do not agree with revising the regulation to require additional alarm regulations at this time because we have determined that the baseline alarm requirements are still adequate.

A commenter noted that the proposed regulations regarding in-port use of the emergency generator at § 112.05–7(c) require the vessel be equipped with displays and alarms in the centralized control station and alarm monitoring at the engineers' quarters. The commenter pointed out that not all ships have a centralized control station or alarm summary panels in the crew's quarters. These regulations set the baseline requirements for in-port use of the emergency generator. If a system designer cannot meet the requirements due to unique ship characteristics, the designer may propose equivalent arrangements to the MSC in accordance with § 110.20–1. Our intent for these alarm location regulations is to require alarms both where the emergency generator is normally controlled and where crew would normally be located in port.

Additionally, two commenters noted that the NPRM did not discuss arrangements for feedback to power the vessel's main switchboard for habitability services and any special load analysis considerations or interlocks requirements for paralleling with main generators. Following our review, we find that there is not a need to include provisions on these points because the existing § 112.05–3(c) and the new § 112.05–7(g) both address use of the emergency generator to feedback to non-emergency loads and require either disconnection or automatic load shedding of these loads before the emergency generator is overloaded.

Another commenter was concerned that § 112.05–7(e) appeared to be describing requirements for breaker coordination to main services while using the emergency generator in port. This is true, and this coordination is not a new requirement. Subpart 111.51 requires coordinated protection and selective operation of overcurrent protective devices for all potential plant configurations, including this situation. Section 112.05–7(e) clarifies that in port use of the emergency generator is one of the configurations requiring coordination of overcurrent devices in accordance with § 111.51–5(a). Per the requirements of this rule, the power supply circuits for the use of an emergency generator in port must be arranged and protected to ensure that any electrical fault (except for the emergency generator and the emergency switchboard) will not affect the operation of the main and emergency services. The commenter was concerned this requirement could be interpreted to require full breaker coordination, which they believe is not feasible on many vessels with large distribution breakers from the main switchboard not designed to coordinate with a small power source such as the in-port generator. The commenter requested we remove references to protecting the main power system while using emergency generator in port from these regulations, noting that the intent of the rule is to ensure the availability of the emergency power system if it is being used as the power source while in-port. We understand the commenter's concerns, but, as explained in Section V.E, this provision has been accepted by IMO since 2005 and is similarly addressed in classification society rules. It is true that many of the provisions in this section are aimed at ensuring the availability of the emergency generator in port, but it is also important that the power circuits for the main distribution system are appropriately protected when powered by the emergency generator. We recognize that full coordination may not always be possible because of the large variation in short currents due to different operational conditions, but the coordination study must demonstrate main power system circuits connected to the emergency generator in port are adequately protected against short circuit. For these reasons we did not make any changes to the regulatory text originally proposed for § 112.05–7.

*Subpart 112.15—Emergency Loads*

§ 112.15–1 Temporary Emergency Loads

As provided in the NPRM, in § 112.15–1 we will now require an engineer's assistance-needed alarm as a

required temporary emergency load. A commenter correctly noted that adding the alarm as a temporary emergency load meant that it would also be a final emergency load. This is correct. In accordance with § 112.15–5(a), temporary emergency loads are also final emergency loads.

*Regulatory Analysis Comments*

A commenter asserted that table 3, ''Affected U.S.-Flagged Vessel Population That Complies with 46 CFR Subchapter J,'' on page 21462 of the NPRM, does not provide enough clarity to determine whether floating OCS facilities are excluded or included under the vessel count for ''Cargo and Miscellaneous Vessels.'' The commenter also encouraged the Coast Guard to make changes to the Marine Information for Safety and Law Enforcement (MISLE) database and Coast Guard documentation to ensure this and future rulemakings clarify whether floating OCS facilities are included or excluded.

Another commenter expressed a concern regarding table 3, suggesting that, despite what may be currently listed in MISLE, the latest tally of U.S.-flagged MODUs is less than 5, and likely comprises only the Helix Q4000 and Enterprise Offshore Drilling's EOD 201, and possibly the Spartan Rigs 202 and 303. The commenter suggested we revise table 3 of the proposed rule to read ''<5'' to more accurately reflect the scope of subchapter J's application to U.S.-flagged MODUs.

We agree with these commenters' assertions that we incorrectly counted the number of Cargo and Miscellaneous Vessels. Our MISLE database listed floating production systems as being inspected under Title 46 of the CFR, subchapter I–A. This is incorrect. As a result, we overstated the number of MODUs in the regulatory analysis (RA) for the proposed rule, which lowered the population of vessels in the ''Cargo and Miscellaneous Vessels'' category for the final rule. After further analysis, we revised the population of MODUs to one: the Helix Q4000. This is the only MODU in our MISLE database. Therefore, the number of MODUs for the final rule is one because we incorrectly classified the rest based on the subchapter inspection field in MISLE. We added the population of 41 floating production systems in our MISLE database to the final rule RA's category of ''Cargo and Miscellaneous Vessels'' inspected under subchapter I, which we present in table 4 of the RA. The number of vessels in this category increased from 576 in the proposed rule to 617 in the final rule. Because we updated the entire vessel population for this final rule, the total number of vessels increased from 5,570 in the proposed rule to 5,602 (see table 4).

## V. Discussion of the Rule

### *A. Revisions to § 110.10–1 Incorporation by Reference*

The standards that are incorporated by reference in subchapter J are listed in § 110.10–1. With this rule, the Coast Guard updates the technical standards to reflect more recent editions of the standards available to the public. We encourage the use of these updated standards because they reflect the best available technologies, practices, and procedures that are recommended by consensus bodies and other groups with experience in the industry. As the baseline upon which other standards, rules, and equivalency requests are evaluated, it is important that subchapter J incorporates up-to-date references.

We incorporate by reference the class rules of ABS, in particular, in multiple locations within subchapter J and throughout 46 CFR Chapter I. It is important to note that while these rules set the regulatory baseline or standard for specific engineering systems and equipment, the Coast Guard also designated several other authorized classification societies in accordance with 46 CFR part 8. These classification societies are listed on the Coast Guard website.[5] The Coast Guard authorized the listed classification societies to perform certain functions and certifications using their respective class rules on vessels enrolled in the ACP. Vessels not enrolled in the ACP may propose using the class rules of an authorized classification society as an alternative to the ABS class rules incorporated by reference for particular engineering systems and equipment in accordance with § 110.20–1.

Throughout § 110.10–1, we also add additional standards to provide alternative compliance options, remove outdated standards, and clarify existing requirements. Where applicable, we update the naming format, mailing addresses, phone numbers, and URL addresses for the standards already incorporated by reference. These updates will ensure that the standards are reasonably accessible to the public.

Following this paragraph, we list the standards we are updating, adding, or deleting in § 110.10–1. Within each standard listed, we describe the topics covered by the standard, the changes to the standard, any differences between currently incorporated IBR standards, and a list of the subparts or sections that reference the IBR standard. If this rule does not make any changes to a standard that is currently incorporated by reference, the standard will not be discussed in the revisions to § 110.10–1. However, it will be included, without change, in the regulatory text of § 110.10–1 that appears at the end of this document.

- *ABS Rules for Building and Classing Marine Vessels (ABS Marine Vessel Rules), 2020.* The rules contain a comprehensive set of construction and maintenance requirements for ships and offshore facilities. The rules are, in general, developed by the International Association of Classification Societies (IACS) and by ABS staff, and reviewed and approved by committees made up of naval architects, marine engineers, shipbuilders, engine builders, steel makers and by other technical, operating, and scientific personnel associated with the worldwide maritime industry. Because of classification society rules' comprehensive nature and ABS's long history of ensuring vessel safety and seaworthiness, they are a valuable supplement to the numerous voluntary consensus standards incorporated by reference. In subchapter J the rules provide an option for the design of engineering systems and components including generators, semiconductor rectifiers, and electric propulsion systems. Specifically, we currently reference the 2003 edition in §§ 110.15–1(b), 111.01–9(b), 111.12–3, 111.12–5, 111.12–7(a) and (b), 111.33–11, 111.35–1, 111.70–1(a), 111.105–31(n), 111.105–39 introductory text and (a), 111.105–40(a) and (c), and 113.05–7(a). In 2020, ABS transitioned from the ABS Steel Vessel Rules to the ABS Marine Vessel Rules. This allowed ABS to consolidate several rules into one foundational rule. We incorporate by reference the 2020 ABS Marine Vessel Rules in the aforementioned sections and additionally in the new § 112.05–7(c) related to use of emergency generators in port. The ABS Marine Vessel Rules undergo an annual review and approval process by ABS technical committees. The Coast Guard participates on these committees, which are comprised of international experts with relevant experience. We are incorporating by reference the following parts of the ABS Marine Vessel Rules: Parts 1, 2, 3, 4, 5A, 5B, 5C, 5D, 6, and 7. Several of the sections of the ABS Marine Vessel Rules that we incorporate

[5] See *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/Flag-State-Control-Division/ClassSocAuth/.*

by reference have been individually updated. For example:

○ ABS Marine Vessel Rules 4–8–3/Table 2: This table specifies minimum degrees of protection for electrical equipment. This updated table contains several technical updates since the 2003 edition, including additional notes concerning areas protected by fixed water-spray or water mist fire extinguishing systems, and equipment subject to water splash.

○ ABS Marine Vessel Rules 4–8–3: We reference this section for generator construction requirements. The updated edition contains technical updates to account for changes in technology since the 2003 edition.

○ ABS Marine Vessel Rules 4–8–5/5.17.9: This section regarding semiconductor rectifiers now requires a high temperature alarm.

○ ABS Marine Vessel Rules 4–8–5/5.5: This edition contains updates to propulsion generator requirements.

○ ABS Marine Vessel Rules 4–8–2/9.17: This edition updates the requirements for protection of motor circuits to address athwartship thruster motor load alarms and more clearly defines the systems requiring undervoltage release.

○ ABS Marine Vessel Rules 4–8–3/5: This updated section regarding switchboards and motor controllers contains additional cable connection requirements, optional alternative creepage and clearance distances, and additional requirements on battery and uninterruptible power systems based on advancements in technology.

○ ABS Marine Vessel Rules 5–10–4/3: This section regarding roll-on/roll-off cargo spaces is now titled 5C–10–4/3. The new edition made updates to ventilation requirements and to the tables of dangerous goods.

○ ABS Marine Vessel Rules 4–9–7/Table 9: This table regarding equipment testing is now titled 4–9–8/Table 1. The updates to this table reflect changes in technology and industry testing practices.

• *ABS Rules for Building and Classing Mobile Offshore Units (ABS MOU Rules), Part 4 Machinery and Systems, 2020.* The rules contain a comprehensive set of construction and maintenance requirements for mobile offshore drilling units. In subchapter J the rules provide an option for the design of engineering systems and components including generator, semiconductor rectifier, and electric propulsion systems. Specifically, we currently reference the 2001 edition in §§ 111.12–1(a), 111.12–3, 111.12–5, 111.12–7(c), 111.33–11, 111.35–1, and 111.70–1(a). In 2020, ABS transitioned from the ABS Mobile Offshore Drilling Units Rules to the ABS MOU Rules. This allowed ABS to consolidate several rules into one foundational rule. By means of this rule, we incorporate by reference the 2020 ABS MOU Rules. Like the ABS Marine Vessel Rules, the ABS MOU Rules will undergo a regular review and approval process by the ABS technical committees comprised of international experts with relevant experience. ABS updated and changed the title of several of the ABS MOU rules incorporated by reference in these sections. For example:

○ ABS MOU Rules 4–3–4 (renamed ABS MOU Rules 6–1–7): We reference this section regarding generator construction requirements. ABS made several technical updates since the 2001 edition to account for changes in technology.

○ ABS MOU Rules 4–3–4/3.5.3 (renamed 6–1–7/12): We reference this section for semiconductor converters requirements. ABS made several updates to the standard due to changes in technology.

○ ABS MOU Rules 4–3–4/7.1 (renamed 6–1–7/9.9): We reference this section regarding bus bars and wiring requirements. ABS made several updates to the section since the 2001 edition.

• *ANSI/IEEE C37.12-1991—American National Standard for Alternating Current (AC) High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis-Specifications Guide.* We remove this standard from § 111.54–1 because IEEE changed the title and republished it with updates in 2008 as IEEE C37.12–2008—IEEE Guide for Specifications of High-Voltage Circuit Breakers (over 1000 V), 2008. This represented a complete technical revision of the standard. IEEE subsequently revised it again in 2018. We incorporate by reference IEEE C37.12–2018 in § 111.54–1 and further discuss this standard with the other IEEE standards incorporated by reference.

• *ANSI/IEEE C37.27–1987 (IEEE 331)—Application Guide for Low-Voltage AC Nonintegrally Fused Power Circuitbreakers (Using Separately Mounted Current-Limiting Fuses).* We remove the reference to this standard in § 111.54–1 because this guide was replaced by IEEE C37.27—2015—IEEE Guide for Low-Voltage AC (635 V and below) Power Circuit Breakers Applied with Separately-Mounted Current-Limiting Fuses, 2015. We discuss this standard, IEEE C37.27—2015, with the other IEEE standards incorporated by reference.

• *ANSI/ISA–RP12.06.01–2003—Recommended Practice for Wiring Methods for Hazardous (Classified) Locations Instrumentation Part 1: Intrinsic Safety.* This recommended practice provides guidance on installation of intrinsically safe systems for use in hazardous (classified) locations. It clarifies and explains the requirements of Articles 504 and 505 of NFPA 70 (National Electrical Code). This recommended practice supersedes ISA RP 12.6–1995. By means of this rule, we delete ISA RP 12.6 from reference in § 111.105–11 and replace it with ANSI/ISA–RP12.06.01–2003.

• *ANSI/ISA 12.12.01–2015—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.* The purpose of this standard is to provide minimum requirements for the design, construction, and marking of electrical equipment or parts of such equipment for use in Class I and Class II, Division 2 and Class III, Divisions 1 and 2 hazardous (classified) locations. This newer edition of the standard replaces ANSI/ISA 12.12.01–2012, which the Coast Guard recently added to § 111.108–3(b) as part of a separate rulemaking titled ''Electrical Equipment in Hazardous Locations'' (80 FR 16980, Mar. 31, 2015). Additionally, we include ANSI/ISA 12.12.01–2015 in §§ 111.105–3(b) and 111.106–3(b) as another certification option for electrical equipment in hazardous location. The 2015 edition contains minor technical changes from the 2012 edition.

• *ANSI/ISA–60079–18—Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Third Edition, 2012.* This standard gives the specific requirements for the construction, testing, and marking of electrical equipment and parts of electrical equipment, and for the designation of explosion-protected electrical apparatus complying with IEC standards (Ex) components (which is part of an electrical equipment module found in the European hazardous area scheme) with the type of protection encapsulation ''m'' intended for use in explosive gas atmospheres or explosive dust atmospheres. We currently reference the 2009 edition of this standard in § 111.106–3(d), and the 2012 edition in § 111.108–3(e). This rule removes the ANSI/ISA–60079–18 references in §§ 111.106–3(d) and 111.108–3(e) because the standard has been withdrawn and replaced by UL 60079–18, a substantively similar standard. We replace the ANSI/ISA standard with UL 60079–18 in § 111.106–3(d) and 111.108–3(e).

• *API Recommended Practice (RP) 14F—Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Division 1 and Division 2 Locations, Sixth Edition, October 2018.* This document recommends minimum requirements and guidelines for the design, installation, and maintenance of electrical systems on fixed and floating petroleum facilities located offshore. By means of this rule, we reference clause 6.8 of the document in § 111.105–17. This clause provides guidance on use of conduit, cable seals, and sealing methods. The incorporation of this standard adds another wiring option in hazardous locations.

• *API RP 14FZ—Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1, and Zone 2 Locations, Second Edition, May 2013.* This document recommends minimum requirements and guidelines for the design, installation, and maintenance of electrical systems on fixed and floating petroleum facilities located offshore. By means of this rule, we reference clause 6.8 of the document in § 111.105–17. This clause provides guidance on use of conduit, cable seals, and sealing methods. The incorporation of this standard adds another wiring option in hazardous locations.

• *API RP 500—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Third Edition, December 2012 with errata January 2014.* This recommended practice provides guidelines for classifying locations at petroleum facilities as Class I, Division 1 and Class I, Division 2 locations for the selection and installation of electrical equipment. We currently reference the second edition (1997) of this standard in §§ 111.106–7(a) and 111.106–13(b). By means of this rule, we reference instead the more recent, third edition (2012) in those sections. The 2012 edition contains editorial changes, but the technical content has not changed.

• *API RP 505—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, Second Edition, August 2018.* The purpose of this recommended practice is to provide guidelines for classifying locations Class I, Zone 0, Zone 1, and Zone 2 at petroleum facilities for the selection and installation of electrical equipment. We currently reference the first edition, which was published in 1997 and reaffirmed in 2013, in § 111.106–7(a) and 111.106–13(b). By means of this rule, we reference instead the more recent, second edition (2018) in those sections. This does not substantively change the requirements of those sections.

• *ASME A17.1–2016/CSA B44–16—Safety Code for Elevators and Escalators: Includes Requirements for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, reissued January 16, 2017 with errata.* This code covers the design, construction, operation, inspection, testing, maintenance, alteration, and repair of elevators, hoists, escalators and their associated parts, rooms, and spaces. We currently reference the sixteenth edition (2000) in § 111.91–1. By means of this rule, we reference instead the more recent, twenty-first edition (2016) in that section. ASME updated this standard based on changes in technology. The updated standard addresses new types of elevators being used in the industry, specifically wind turbine elevators and outside emergency elevators. In addition, the standard contains new requirements to address a new feature called ''Elevator Evacuation Operation'' that allows for the use of elevators for occupant evacuation. Moreover, there are several major changes to the standard that include seismic requirements, updated maintenance control program requirements, and revisions regarding qualifications for elevator inspectors. ASME A17 has been an industry accepted standard since 1921. Although many of the changes to the presently incorporated edition of the standard do not apply to shipboard elevators, it is important that shipboard elevators meet the updated provisions that do apply.

• *ASTM B117—19 Standard Practice for Operating Salt Spray (Fog) Apparatus, 2019.* This practice covers the apparatus, procedure, and conditions required to create and maintain the salt spray (fog) test environment. Where the Coast Guard's regulations require material to be corrosion-resistant it must meet the testing requirements of this ASTM standard practice. We currently reference the 1997 edition in § 110.15–1(b). By means of this rule, we reference instead the 2019 edition. The 1997 edition has been superseded by several subsequent editions. ASTM made the following changes over the recent editions of this standard that are ultimately incorporated into the 2019 version we adopt in this rulemaking. The testing specifications in the 2011 edition are similar to those in the 1997 edition, but the 2011 edition is more detailed. For example, the impurity restrictions are more detailed in section 8, the air supply requirements are more specific in section 9, and the conditions in the salt chamber are more precisely described in section 10. The 2016 edition added a warning about the impact of water conductivity in section 4 while the 2019 edition added several minor but non-substantive explanatory sections. Overall, the 2019 edition of this testing standard practice for operating salt spray apparatus is very similar to the 1997 edition currently incorporated, with minor improvements in the specifications to ensure testing consistency and precision.

• *ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, Reapproved 2015.* This practice covers the method of testing, rating, and installing internal combustion engine packages for use in hazardous areas in marine applications. We currently reference the 2010 edition of this standard in §§ 111.106–3(h) and 111.108–3(g). By means of this rule, we also reference the 2010 edition in new § 111.105–28 regarding internal combustion engines. This ensures a consistent standard for these installations on all vessel and facility types.

• *CSA C22.2 No. 30–M1986—Explosion-proof enclosures for use in class I hazardous locations, Reaffirmed 2016.* This standard covers the details of construction and tests for explosion-proof enclosures for electrical equipment to be used in Class I, Division 1, Groups A, B, C, and D hazardous locations and in gaseous mines. We currently reference the 1986 edition of this standard in §§ 111.106–3(b) and 111.108–3(b) and by means of this rule incorporate instead the reaffirmed version therein. The two versions are not substantively different. We also reference this reaffirmed standard in § 111.105–3(b), regarding approved equipment, as an additional compliance option. This affords the broadest and most current selection of IBR explosion protection standards for all vessel and facility types.

• *CSA C22.2 No. 213–16—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations, May 2016.* This standard provides the details of construction and testing of electrical

equipment for use in Class I and II, Division 2 and Class III, Division 1 and 2 hazardous locations. We currently reference the 1987 edition in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference instead the 2016 edition in these sections and also in § 111.105–3(b) concerning approved equipment. This standard received a major revision since the 1987 edition based on advances in technology and changes to related standards. It is an accepted national standard and one of several available standards for nonincendive electrical equipment. Our incorporation of this updated edition ensures use of latest industry practices and including it in § 111.105–3 ensures that standards are consistent for electrical installations on all vessel and facility types.

• *CSA–C22.2 No. 0–10—General requirements—Canadian Electrical Code, Part II, including Update No. 2, dated November 2014, Reaffirmed 2015.* This standard covers definitions, construction requirements, marking, and tests of a general nature that applies to all or several of the individual standards of the Canadian Electrical Code. We currently reference the ninth edition of this standard in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference instead the tenth edition, reaffirmed in 2015, in these sections and in § 111.105–3(b) concerning approved equipment. The tenth edition includes new requirements for equipment containing lasers or lithium batteries, criteria for the use of adhesives in the construction of electrical equipment, surface temperature limits, attachment plug loading, and the maximum temperature of equipment in contact with gypsum. Additionally, it incorporates a comprehensive list of definitions for use in standards for electrical products and outlines the relationship between this standard and electrical product standards. We incorporate this more recent edition in subpart 111.105 to ensure that standards are consistent for electrical installations on all vessel and facility types.

• *CAN/CSA–C22.2 No. 157–92—Intrinsically safe and nonincendive equipment for use in hazardous locations, including Update No. 2, dated June 2003, reaffirmed 2016.* This standard specifies the testing of nonincendive electrical equipment and the details of construction and tests for intrinsically safe electrical equipment for use in hazardous locations. We currently reference the 1992 edition of this standard, which is not substantively different from the reaffirmed edition, in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference instead the reaffirmed 1992 edition in those sections. In addition, we are adding a reference to the reaffirmed edition in § 111.105–3(b) concerning approved equipment, which provides an additional option for vessels and facilities.

• *MIL–DTL–24640C with Supplement 1—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, Nov. 8, 2011.* This military specification provides the details of construction and testing of lightweight, low smoke, electric cables for Navy shipboard applications and is also used aboard commercial vessels. Incorporating this specification by reference allows manufacturers access to both military and commercial markets without the cost of unnecessary additional testing to a similar voluntary consensus standard. MIL–DTL–24640C is already incorporated by reference and approved for § 111.106–5(a). However, MIL–DTL–24640C supersedes MIL–C–24640A (1996), currently referenced in §§ 111.60–1 and 111.60–3. We incorporate the updated edition, MIL–DTL–24640C (2011), into § 111.60–1 only, because this rule deletes § 111.60–3. The updated edition, published in 2011, incorporates the latest developments in marine cable materials and performance enhancements but will not substantively change requirements. Supplement 1 includes lists of associated specification sheets and cables.

• *MIL–DTL–24643C (as updated by Supplement 1A)—Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for, Oct. 1, 2009 (including Supplement 1A dated Dec. 13, 2011).* This military specification is already incorporated by reference in § 111.106–5(a) and provides the details of construction and testing of low-smoke halogen-free electric cable for Navy shipboard applications and is also used aboard commercial vessels. Incorporating this specification by reference allows manufacturers access to both military and commercial markets without the cost of unnecessary additional testing to a similar voluntary consensus standard. This specification supersedes the currently referenced MIL–C–24643A (1996) incorporated by reference in §§ 111.60–1 and 111.60–3. We delete references to MIL–C–24643A (1996) and incorporate the latest standard MIL–DTL–24643C (2011) into § 111.60–1 only, because this rule rescinds § 111.60–3. This updated edition, published in 2011, incorporates the latest developments in marine cable materials and performance enhancements. Supplement 1 includes lists of associated specification sheets and cables.

• *MIL–DTL–76E—Military Specification Wire and Cable, Hookup, Electrical, Insulated, General Specification for, Nov. 3, 2016.* This specification provides the standards for construction and testing of single-conductor, synthetic-resin insulated, electrical hookup wire and cable for use in the internal wiring of electrical and electronic equipment. Incorporating this specification by reference allows manufacturers access to both military and commercial markets without the cost of unnecessary additional testing to a similar voluntary consensus standard. We currently reference MIL–W–76D in § 111.60–11. In 2016 the standard was revised and renamed MIL–DTL–76E. This edition has formatting changes and minor updates based on current technology. We incorporate this revised standard as one of several available standards for wire.

• *EN 14744—Inland navigation vessels and sea-going vessels—Navigation light, English Version, August 2005.* This standard, developed by the European Committee for Standardization, provides the details for construction and testing of vessel navigation lights. By means of this rule, we include it as an acceptable alternate standard for navigation lights in § 111.75–17(d)(2).

• *FM Approvals Class Number 3600—Approval Standard for Electrical Equipment for Use in Hazardous (Classified) Locations—General Requirements, 2018.* This standard identifies the basis for approval of electrical equipment in hazardous (classified) locations. It is used in conjunction with the other FM Approvals standards referenced in subchapter J. We currently reference the 1998 edition of this standard in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we incorporate instead the more recent 2018 edition for §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). This edition includes transitioning from ISA series of standards to UL standards, an expanded list of normative references, and more specificity regarding the required quality control system. The incorporation of this more recent edition ensures use of the latest industry practices and including it in § 111.105–3(b) regarding approved equipment ensures that standards are consistent for electrical installations on all vessel and facility types.

• *FM Approvals Class Number 3610—Approval Standard for*

*Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2018.* This standard provides requirements for the construction and testing of electrical apparatus, or parts of such apparatus, whose circuits are incapable of causing ignition in Classes I, II, and III, Division 1 hazardous (classified) locations. We currently reference the 2004 edition of this standard in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we incorporate instead the more recent 2018 edition in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The incorporation of this more recent edition ensures use of latest industry practices and including it in § 111.105–3(b) regarding approved equipment ensures that standards are consistent for electrical installations on all vessel and facility types.

• *FM Approvals Class Number 3611—Approval Standard for Nonincendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, January 2018.* This standard provides requirements for the construction and testing of electrical apparatus, or parts of such apparatus, whose circuits are incapable of causing ignition in Class I and II, Division 2, and Class III, Divisions 1 and 2 hazardous (classified) locations. This standard is currently referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we add this as an alternative standard in § 111.105–3(b) concerning approved equipment. This ensures that standards are consistent for electrical installations on all vessel and facility types.

• *FM Approvals Class Number 3615—Approval Standard for Explosion-proof Electrical Equipment General Requirements, January 2018.* This standard contains the basic requirements for the construction and testing of explosion-proof electrical apparatus. This standard is currently referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we add this as an alternative standard in § 111.105–3(b) regarding approved equipment. This ensures that standards are consistent for electrical installations on all vessel and facility types.

• *FM Approvals Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, January 2018.* This standard contains the basic requirements for the construction and testing of purged and pressurized electrical equipment. We currently reference the 2000 edition of this standard in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference instead the 2018 edition in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The two editions of the standard are not substantively different and adding it to § 111.105–3(b) ensures consistent standards for electrical installations on all vessel and facility types.

• *IEEE Std. C37.04–2018—IEEE Standard for Ratings and Requirements for AC High-Voltage Circuit Breakers with Rated Maximum Voltage above 1000 V, approved December 5, 2018.* This document establishes a rating structure, preferred ratings, construction, and functional component requirements for high-voltage AC circuit breakers. We currently reference the 1999 edition of this standard in § 111.54–1. By means of this rule, we reference instead the 2016 edition in § 111.54–1. This more recent edition contains updates that reflect current circuit breaker manufacturing technology.

• *IEEE Std. C37.010–2016—IEEE Application Guide for AC High-Voltage Circuit Breakers >1000 Vac Rated on a Symmetrical Current Basis, approved September 22, 2016.* This document provides guidance for the application of high-voltage circuit breakers. We currently reference the 1999 edition of this standard in § 111.54–1. By means of this rule, we reference instead the 2016 edition in § 111.54–1. This more recent edition contains updates that reflect current circuit breaker manufacturing technology.

• *IEEE Std. C37.12–2018—IEEE Guide for Specifications of High-Voltage Circuit Breakers (over 1000 V), approved December 5, 2018.* These specifications apply to all indoor and outdoor types of AC high-voltage circuit breakers rate above 1000 volts (V). It replaces ANSI/IEEE C37.12–1991. IEEE C37.12–2018 represents a nearly complete rewrite of 1991 edition to reflect present circuit breaker manufacturing technology. The 2018 edition of this standard is one of several acceptable circuit breaker standards listed in § 111.54–1.

• *IEEE Std. C37.13–2015—IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, approved 5 Dec. 2015.* This standard establishes minimal functional requirements, establishes preferred rating structure, and provides preferred ratings enclosed low-voltage AC power circuit breakers. We currently reference the 2000 edition of this standard in § 111.54–1. By means of this rule, we reference instead the 2015 edition in § 111.54–1. This more recent edition has many technical updates to address advancements in technology, including an increase in nominal voltages, new testing techniques, and removal of information on DC circuit-breakers (now located in IEEE C37.14). This standard is one of several acceptable circuit-breaker standards in § 111.54–1.

• *IEEE Std. C37.14–2015—IEEE Standard for DC (3200 V and below) Power Circuit Breakers Used in Enclosures, approved 26 Mar. 2015.* This standard covers the preferred ratings and testing requirements of enclosed DC power circuit breakers. We currently reference the 2003 edition of this standard § 111.54–1. By means of this rule, we reference instead the more recent 2015 edition in § 111.54–1, which contains many technical changes to reflect present circuit breaker manufacturing technology and advancements in technology.

• *IEEE Std. C37.27–2015—IEEE Guide for Low-Voltage AC (635 V and below) Power Circuit Breakers Applied with Separately-Mounted Current-Limiting Fuses, approved December 5, 2015.* This guide sets forth recommendations for the selection of current-limiting fuses for use in combination with low-voltage AC power circuit breakers. This guide replaces ANSI/IEEE C37.27–1987, which we currently reference in § 111.54–1. IEEE C37.27–2015 contains many technical updates to address advancements in circuit breaker manufacturing technology, which provide the public with more accurate and applicable standards for modern circuit breakers than the previous 1987 edition. We incorporate this guide as one of several acceptable circuit breaker standards listed in § 111.54–1.

• *IEEE Std. 45–1998—IEEE Recommended Practice for Electric Installations on Shipboard—1998.* IEEE 45–2002 superseded the 1998 edition, but in some instances the Coast Guard previously found the 1998 edition preferable and continued to reference it. Because the 1998 edition is no longer supported by IEEE and other acceptable standards exist, we delete all references to this standard, which is currently referenced in §§ 111.30–19, 111.105–3, 111.105–31, and 111.105–41.

• *IEEE Std. 45–2002—IEEE Recommended Practice for Electrical Installations On Shipboard—2002.* We currently reference this edition of IEEE 45 in the following sections in subchapter J: §§ 111.05–7, 111.15–2, 111.30–1, 111.30–5, 111.33–3, 111.33–5, 111.40–1, 111.60–1, 111.60–3, 111.60–5, 111.60–11, 111.60–13, 111.60–19, 111.60–21, 111.60–23, 111.75–5, and 113.65–5. IEEE has developed the IEEE 45 Series, which comprises nine recommended practices addressing electrical installations on ships and

marine platforms. We replace references to IEEE 45–2002 with newer IEEE 45 Series recommended practices, individually discussed below, in those sections (except in § 111.60–11 because the IEEE 45 does not address wire-related issues that were previously covered by IEEE 45).

• *IEEE Std. 45.1–2017—IEEE Recommended Practice for Electrical Installations On Shipboard—Design, approved 23 Mar. 2017.* This recommended practice provides guidance for electrical power generation, distribution, and electric propulsion system design. These recommendations reflect the present-day technologies, engineering methods, and engineering practices. By means of this rule, we reference this standard in §§ 111.15–2, 111.40–1, 111.75–5, and 113.65–5. The technical content is similar to IEEE 45–2002, which we delete from these sections. We also add a reference to this standard in § 111.105–41 concerning battery rooms.

• *IEEE Std. 45.2–2011—IEEE Recommended Practice for Electrical Installations On Shipboard—Controls and Automation, approved 10 Sep. 2011.* This recommended practice provides guidance for shipboard controls, control applications, control apparatus, and automation. These recommendations reflect present-day technologies, engineering methods, and engineering practices. By means of this rule, we reference this document in §§ 111.33–3 and 111.33–5. The technical content is similar to IEEE 45–2002, which we delete from these sections.

• *IEEE Std. 45.6–2016—IEEE Recommended Practice for Electrical Installations on Shipboard—Electrical Testing, approved 7 Dec. 2016.* This recommended practice provides guidance for electrical testing for power generation, distribution, and electric propulsion systems. These recommendations reflect present-day technologies, engineering methods, and engineering practices. By means of this rule, we reference this document in § 111.60–21. Its technical content is similar to IEEE 45–2002, which we delete from this section.

• *IEEE Std. 45.7–2012—IEEE Recommended Practice for Electrical Installations On Shipboard—AC Switchboards, approved 29 Mar. 2012.* This recommended practice supplements the design, installation, and testing recommendations in IEEE 45–2002. This recommended practice provides new technologies and design practices for generator control panels and switchboards to aid marine electrical engineers in the design, application, and installation of this equipment on ships and other marine installations. By means of this rule, we reference this document in §§ 111.30–1, 111.30–5, and 111.30–19. The technical content of IEEE 45.7–2012 is similar to IEEE 45–2002, but more detailed. It also references other industry standards, many of which we have incorporated by reference elsewhere in subchapter J.

• *IEEE Std. 45.8–2016—IEEE Recommended Practice for Electrical Installations On Shipboard—Cable Systems, approved 29 Jan. 2016.* This document provides recommendations for selection, application, and installation of electrical power, signal, control, data, and specialty marine cable systems on shipboard systems. These recommendations include present-day technologies, engineering methods, and engineering practices. By means of this rule, we replace references to IEEE 45–2002 with IEEE 45.8–2016 in §§ 111.05–7, 111.60–5, 111.60–13, and 111.60–19. The technical content of IEEE 45.8–2016 is similar to IEEE 45–2002, but more detailed.

• *IEEE Std. 1202–2006—IEEE Standard for Flame-Propagation Testing of Wire and Cable with Corrigendum 1, reaffirmed December 5, 2012, Corrigendum 1 approved October 19, 2012.* This standard provides a protocol for exposing cable samples to a theoretical 20 kilowatt (kW) [70,000 British thermal units per hour] flaming ignition source for a 20-minute test duration. The test determines the flame propagation tendency of single conductor and multi-conductor cables intended for use in cable trays. We currently reference the 1991 edition in §§ 111.60–6 and 111.107–1(c). By means of this rule, we reference instead the more recent 2006 edition in §§ 111.60–6 and 111.107–1(c). In the 2006 edition, the normative references have been updated, the temperature at which cables are conditioned has been raised from 18 °C to 25 °C, and minor refinements to the test procedure have been made.

• *IEEE Std. 1580–2010—IEEE Recommended Practice for Marine Cable for Use on Shipboard and Fixed or Floating Facilities, approved 30 Sep. 2010.* This recommended practice contains the requirements for single or multiconductor cables, with or without metal armor or jacket, and rated 300 V to 35 kilovolts (kV), intended to be installed aboard marine vessels, and fixed and floating offshore facilities. The 2001 edition is currently referenced in §§ 111.60–1, 111.60–2, 111.60–3, and 111.106–5(a). By means of this rule, we reference instead the more recent 2010 edition only in §§ 111.60–1, 111.60–2, and 111.106–5(a) because we delete § 111.60–3 in this rule. The 2010 edition has been updated to incorporate the latest developments in marine cable materials and performance enhancements.

• *IEC 60068–2–52:2017—Environmental testing Part 2–52: Tests—Test Kb: Salt mist, cyclic (sodium chloride solution), Edition 3.0, 2017–11.* This standard specifies the application of the cyclic salt mist test to components or equipment designed to withstand a salt-laden atmosphere as salt can degrade the performance of parts manufactured using metallic or non-metallic materials. The second edition is referenced in § 110.15–1. By means of this rule, we incorporate instead the third edition. In this more recent edition, the standard has been updated to ensure consistency with SO 9227—Corrosion tests in artificial atmospheres—Salt spray tests.

• *IEC 60079–0—Electrical apparatus for Explosive Gas Atmospheres—Part 0: General Requirements, Edition 3.1, 2000.* This part of the IEC 60079 series of standards specifies the general requirements for construction, testing, and marking of electrical equipment and Ex components intended for use in explosive atmospheres. This standard was referenced in §§ 111.105–1, 111.105–3, 111.105–5, and 111.105–17. By means of this rule, we will reformat subpart 111.105 to be consistent with subparts 111.106 and 111.108 and will no longer specifically reference IEC 60079–0.

• *IEC 60079–1:2014—Explosive atmospheres—Part 1: Equipment protection by flameproof enclosures ''d'', Edition 7.0, 2014–06.* This part of the IEC 60079 series of standards contains specific requirements for the construction and testing of electrical equipment with the type of protection flameproof enclosure ''d'', which are intended for use in explosive gas atmospheres. We currently reference the fourth edition (2001) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–9, and 111.105–17 while the sixth edition (2007) is referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we remove all references to the fourth and sixth editions of this standard, and replace them with the more recent edition 7.0 (2014) in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The updated standard reflects advances in technology, including:

○ Addition of material limitations of enclosures of equipment and enclosures of Ex components for external mounting;

○ Addition of power factor requirement for evaluating the ability of a plug and socket to remain flameproof during the arc-quenching period while opening a test circuit; and

○ Addition of marking requirements for Ex component enclosures, in addition to the requirements for marking of Ex components given in IEC 60079–0.

• *IEC 60079–2:2014—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'', with Corrigendum 1 (2015), Edition 6.0, 2014–07.* This part of the IEC 60079 series of standards contains specific requirements for the construction and testing of electrical equipment with pressurized enclosures, of type of protection ''p'', intended for use in explosive gas atmospheres or explosive dust atmospheres. It also includes the requirements for pressurized enclosures containing a limited release of a flammable substance. We currently reference the fourth edition (2001) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, and 111.105–17, while the fifth edition (2007) is referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we delete all references to the fourth and fifth edition. The more recent edition 6.0 (2014) is incorporated in §§ 111.105–3(b), 111.105–17, 111.106–3(b), and 111.108–3(b). The updated standard now covers combustible dust, cells and batteries, and backup protective gas. The incorporation of the more recent edition ensures consistent, up-to-date standards for electrical installations on all vessel and facility types.

• *IEC 60079–5:2015—Explosive atmospheres—Part 5: Equipment protection by powder filling ''q'', Edition 4.0, 2015–02.* This part of the IEC 60079 series of standards contains specific requirements for the construction, testing, and marking of electrical equipment, parts of electrical equipment, and Ex components in the type of protection powder filling ''q'', intended for use in explosive gas atmospheres. We currently reference the second edition (1997) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17, while the third edition (2007) is referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we delete all references to the second and third edition. The more recent edition 4.0 (2015), containing minor technical revisions and clarifications, is incorporated into §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). This will ensure consistent, up-to-date standards for electrical installations on all vessel and facility types but will not result in a substantive change to the current requirements.

• *IEC 60079–6:2015—Explosive atmospheres—Part 6: Equipment protection by liquid immersion ''o'', Edition 4.0, 2015–02.* This part of the IEC 60079 series of standards specifies the requirements for the design, construction, testing and marking of Ex equipment and Ex components with type of protection liquid immersion ''o'' intended for use in explosive gas atmospheres. We currently reference the second edition (1995) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17, while the third edition (2007) is referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we delete all references to the second and third edition. The more recent edition, 4.0 (2015), will be added to §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The incorporation of the latest edition ensures consistent, up-to-date standards for electrical installations on all vessel and facility types. The latest edition represents a major technical revision of the requirements for oil immersion ''o''. These revisions include:

○ The redefinition of the requirements for oil immersion ''o'' into liquid immersion levels of protection ''ob'' and ''oc'';

○ The addition of the ability to protect sparking contacts to both ''ob'' and ''oc''; and

○ The introduction of additional requirements for the protective liquid.

• *IEC 60079–7:2015—Explosive atmospheres—Part 7: Equipment protection by increased safety ''e'', with Amendment 1 (Consolidated Version), Edition 5.1, 2017–08.* This part of the IEC 60079 series of standards specifies requirements for the design, construction, testing, and marking of electrical equipment and Ex components with type of protection increased safety ''e'' intended for use in explosive gas atmospheres. We currently reference the third edition (2001) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17, while the fourth edition (2006) is referenced in § 111.106–3(b) and 111.108–3(b). By means of this rule, we remove all references to the third and fourth editions of this standard. The more recent consolidated edition 5.1 with amendment 1 (2017) is added to §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The standard contains updates including the addition of terminal installation tests, the addition of solid insulating material requirements based on thermal stability, and the revision of the requirements for soldered connections. The incorporation of the more recent edition ensures consistent, up-to-date standards for electrical installations.

• *IEC 60079–11:2011—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'' with Corrigendum 1 (January 2012), Edition 6.0, 2011–06.* This part of the IEC 60079 series of standards specifies the construction and testing of intrinsically safe apparatus intended for use in an explosive atmosphere and for associated apparatus, which is intended for connection to intrinsically safe circuits that enter such atmospheres. This type of protection applies to electrical equipment in which the electrical circuits themselves are incapable of causing an explosion in the surrounding explosive atmospheres. We currently reference the fourth edition (1999) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–11, and 111.105–17. The fifth edition (2006) is currently referenced in § 111.106–3(b), and the more recent IEC 60079–11:2011, Edition 6.0, is referenced in § 111.108–3(b). By means of this rule, we remove all references to the fourth and fifth editions and adopt the more recent edition 6.0 with corrigendum 1 (2012), for §§ 111.105–3(b) and 111.106–3(b), as well as retaining it in § 111.108–3(b). The changes with respect to the previous editions are as follows:

○ Inclusion of non-edition specific references to IEC 60079–0;

○ Merging of the apparatus requirements for the Fieldbus Intrinsically Safe Concept (FISCO) from IEC 60079–27;

○ Merging of the requirements for combustible dust atmospheres from IEC 61241–11;

○ Clarification of the requirements for accessories connected to intrinsically safe apparatus (such as chargers and data loggers);

○ Addition of new test requirements for opto-isolators; and

○ Introduction of Annex H about ignition testing of semiconductor limiting power supply circuits.

The incorporation of the more recent edition ensures consistent, up-to-date standards for electrical installations.

• *IEC 60079–13:2017—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'' and artificially ventilated room ''v'', Edition 2.0, 2017–05.* This part of the IEC 60079 series of standards gives requirements for the design, construction, assessment, and testing, and marking of rooms protected by pressurization. We currently reference Edition 1.0 (2010) of this standard in §§ 111.106–3(b) and

111.108–3(b). By means of this rule, we reference instead Edition 2.0 (2017), the more recent edition, in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). This standard contains the following changes:

○ Modification of the title to include artificially ventilated room ''v'' in addition to pressurized room ''p'';

○ Addition of protection types (''pb'', ''pc'', and ''vc'');

○ Removal of protection types (''px'', ''py'', ''pz'' and ''pv'');

○ Definition of the differences between pressurization and artificial ventilation types of protection;

○ Removal of protection of rooms with an inert gas or a flammable gas from the scope of standard; and

○ Addition of an informative annex to include examples of applications where types of protection pressurization or artificial ventilation or pressurization and artificial ventilation can be used and associated guidelines.

The incorporation of the more recent edition ensures consistent, up-to-date standards for electrical installations.

• *IEC 60079–15:2017—Explosive atmospheres—Part 15: Equipment protection by type of protection ''n'', Edition 5.0, 2017–12.* This part of the IEC 60079 series of standards specifies requirements for the construction, testing, and marking for Group II electrical equipment with type of protection ''n'' intended for use in explosive gas atmospheres. This standard applies to non-sparking electrical equipment and also to electrical equipment with parts or circuits producing arcs or sparks or having hot surfaces which, if not protected in one of the ways specified in this standard, could be capable of igniting a surrounding explosive gas atmosphere. We currently reference the second edition (2001) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17, while the edition 4.0 (2010) is referenced in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we remove references to the second edition and edition 4.0, and instead incorporate by reference the more recent edition 5.0 (2017) in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). This standard contains numerous technical changes from the previous version, which reflect changes in industry practices and technology.

• *IEC 60079–18:2017—Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Edition 4.1, Consolidated version, 2017–08.* This part of the IEC 60079 series of standards gives specific requirements for the construction, testing, and marking of electrical equipment, parts of electrical equipment, and Ex components with the type of protection encapsulation ''m'' intended for use in explosive gas atmospheres or explosive dust atmospheres. We currently reference the first edition (1992) of this standard in §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15, and 111.105–17, while the edition 3.0 (2009) is referenced in §§ 111.106–3(b) and (d) and 111.108–3(b) and (e). By means of this rule, we remove references to these earlier editions, and adopt instead the more recent edition 4.1 (2017) for §§ 111.105–3(b) and (e), 111.106–3(b) and (d), and 111.108–3(b) and (e). There have been a few minor technical revisions to the standard, including modified and additional requirements for cells and batteries as well as revised testing guidance. The incorporation of the more recent edition ensures consistent, up-to-date standards for electrical installations.

• *IEC 60079–25:2010—Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010–02.* This part of the IEC 60079 series of standards contains specific requirements for construction and assessment of intrinsically safe electrical systems, type of protection ''i'', intended for use, as a whole or in part, in locations in which the use of Group I, II, or III apparatus is required. We currently reference the Edition 2.0 (2010) in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we also reference this standard in § 111.105–3(b) concerning approved equipment. This ensures that standards are consistent on electrical installations.

• *IEC 60079–30–1 Part 30–1: Electrical resistance trace heating—General and testing requirements, First edition, 2007–01.* This part of the IEC 60079 series of standards specifies general and testing requirements for electrical resistance trace heaters for application in explosive gas atmospheres. This standard covers trace heaters that may be either factory- or field- (work-site) assembled units, which may be series heating cables, parallel heating cables, or heating pads and heating panels that have been assembled or terminated in accordance with the manufacturer's instructions. By means of this rule, we reference this newly incorporated standard in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). Given increased interest in marine operations in the polar regions, this standard provides requirements for surface heating in hazardous locations.

• *IEC 60092–101:2018—Electrical installations in ships—Part 101: Definitions and general requirements, Edition 5.0, 2018–10.* This part of the IEC 60092 series of standards contains definitions and requirements that are common to all electrical apparatus and installations in ships. Edition 4.0 (2002) is referenced in §§ 110.15–1 and 111.81–1. By means of this rule, we reference instead the more recent Edition 5.0 (2018) of this standard in those sections. This edition contains many changes, including the following:

○ The applicability of the standard has been changed to 1,000 V AC and 1,500 V DC;

○ The table for design temperature has been simplified;

○ The clause regarding power supply system characteristics has been rewritten; and

○ Information regarding pollution degree has been added in the clause regarding clearance.

• *IEC 60092–201:2019—Electrical installations in ships—Part 201: System design—General, Edition 5.0, 2019–09.* This standard contains the main features of system design of electrical installations in ships. We currently reference the fourth edition in §§ 111.70–3 and 111.81–1. By means of this rule, we reference instead the more recent Edition 5.0 (2019) of this standard in those sections. This edition contains many changes including the following:

○ Adding a new subclause regarding studies and calculations;

○ Adding a new subclause regarding documentation;

○ Revising the clause regarding distribution systems;

○ Adding a new clause regarding system earthing;

○ Revising the clause regarding sources of electrical power;

○ Revising the clause regarding distribution system requirements;

○ Deleting the clause regarding cables and transferring it to IEC 60092–401; and

○ Adding a new subclause regarding electric and electrohydraulic steering gear.

• *IEC 60092–202:2016—Electrical installations in ships—Part 202: System design—Protection, Edition 5.0, 2016–09.* This part of the IEC 60092 series of standards provides the main features of the electrical protective system design to ensure electrical installations in ships are protected against accidental over-currents, up to and including short-circuit, by appropriate devices.. We currently reference the fourth edition in §§ 111.12–7, 111.50–3, 111.53–1, and 111.54–1. By means of this rule, we reference the more recent edition 5.0 (2016) in those sections, specifically

§§ 111.12–7(b); 111.50–3(c), (e), and (g); 111.53–1(a); and 111.54–1(a). This edition contains substantial technical updates on electrical load studies, short-circuit current calculations, and protection discrimination studies. The incorporation of this edition ensures consistent, up-to-date standards.

• *IEC 60092–301:1980—Electrical installations in ships—Part 301: Equipment—Generators and motors, Third Edition with Amendment 1 (1994–05) and Amendment 2, 1995–04.* This part of the IEC 60092 series of standards provides design specifications for generators and motors. This current edition is referenced in §§ 111.12–7, 111.25–5, and 111.70–1. By means of this rule, we make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but the edits do not alter the edition incorporated by reference.

• *IEC 60092–302:1997—Electrical installations in ships—Part 302: Low-voltage switchgear and controlgear assemblies, Fourth Edition, 1997–05.* This current edition is referenced in §§ 111.30–1, 111.30–5, and 111.30–19. This part of the IEC 60092 series of standards provides design and testing specifications applicable to low-voltage switchgear and controlgear assemblies. By means of this rule, we make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but the edits do not alter the edition incorporated by reference.

• *IEC 60092–303:1980—Electrical installations in ships—Part 303: Equipment—Transformers for power and lighting, Third Edition with amendment 1, 1997–09.* This edition is referenced in § 111.20–15. This part of the IEC 60092 series of standards provides design and testing specifications applicable to all transformers used for power and lighting for use in ships. By means of this rule, we make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but the edits do not alter the edition incorporated by reference.

• *IEC 60092–304:1980—Electrical installations in ships—Part 304: Equipment—Semiconductor convertors, Third Edition with Amendment 1, 1995–04.* This edition is referenced in §§ 111.33–3 and 111.33–5. This part of the IEC 60092 series of standards provides design specifications applicable to static converters using semiconductor rectifying elements such as diodes, reverse blocking triode thyristors, etc. for use in ships. By means of this rule, we make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but the edits do not alter the edition incorporated by reference.

• *IEC 60092–306:2009—Electrical installations in ships—Part 306: Equipment—Luminaires and lighting accessories, Edition 4.0, 2009–11.* This part of the IEC 60092 series of standards contains the construction and testing requirements for luminaires and lighting accessories for use in ships. The construction and testing requirements apply primarily to luminaires for illumination purposes. This standard also applies to lighting accessories associated with the wiring and current-consuming appliance of an installation. This standard does not apply to portable luminaires, navigation lights, search lights, daylight signaling lamps, signal lights including the relevant control and monitoring equipment and other lights used for navigation in channels, harbors, etc. We currently reference the third edition (1980) of this standard in §§ 111.75–20(a) and (b) and 111.81–1. By means of this rule, we reference instead the most recent edition 4.0 (2009) of this standard in those sections. The IEC made the following changes to the standard since the 1980 edition:

○ The title was amended;

○ The scope was stated more precisely;

○ Mechanical design and material requirements were amended and stated more precisely;

○ Table 2—Standard types of lamp holders was amended;

○ Environmental tests, especially regarding shock and vibration, were added;

○ Requirements and tests concerning special chemical and physical attributes were added; and

○ The standard was editorially revised.

• *IEC 60092–350:2014—Electrical installations in ships—Part 350: General construction and test methods of power, control and instrumentation cables for shipboard and offshore applications, Edition 4.0, 2014–08.* This part of the IEC 60092 series of standards provides the general construction requirements and test methods for use in the manufacture of electric power, control, and instrumentation cables with copper conductors intended for fixed electrical systems at voltages up to and including 18/30(36) kV on board ships and offshore (mobile and fixed) units. We currently reference Edition 3.0 (2008) of this standard in § 111.106–5(a). By means of this rule, we reference instead the more recent edition, 4.0 (2014), of this standard in § 111.106–5(a) to ensure the latest industry practices based on changes in technology are addressed. The Coast Guard also amends subpart 111.60 to align with recognized classification society rules and industry practice. In support of this effort, this rule includes IEC 60092–350:2014 in § 111.60–1(a) concerning construction and testing of cable. The 4.0 edition includes the following technical changes as compared to the previous edition:

○ The standard includes a reference to IEC 60092–360 for both the insulating and sheathing compounds;

○ The standard includes partial discharge tests, which were transferred from IEC 60092–354 to align them with IEC 60092–353;

○ The IEC transferred the requirements for oil and drilling-fluid resistance (former Annexes F and G) to IEC 60092–360;

○ The standard contains improved requirements for cold bending and shocks; and

○ The document reflects the changes of material types that were introduced during development of IEC 60092–353 and IEC 60092–360.

• *IEC 60092–352:2005—Electrical installations in ships—Part 352: Choice and Installation of electrical cables, Third Edition, 2005–09.* This part of the IEC 60092 series of standards provides the basic requirements for the choice and installation of cables intended for fixed electrical systems on board ships at voltages up to and including 15 kV. We currently reference the second edition (1997) of this standard in §§ 111.60–3, 111.60–5 and 111.81–1. Because of the revisions to subpart 111.60, we instead reference the more recent third edition (2005) of this standard in §§ 111.60–1 and 111.60–5(a) and (b). Additionally, IEC 60092–352:2005 will replace the previous 1997 edition referenced in § 111.81–1. We do not include the 2005 edition in § 111.60–3 because this rule rescinds that section. The 2005 edition has several minor updates including changes to:

○ Sizes of earth continuity conductors and equipment earthing connections;

○ Bending radii for cables rated at 3,6/6,0 (7,2) kV and above;

○ Current carrying capacities in amperes at core temperatures of 70 °C and 90 °C; and

○ Tabulated current carrying capacities—defined installations.

The incorporation of the 2005 edition ensures that we address the latest technologies and industry practices for this standard.

• *IEC 60092–353:2016—Electrical installations in ships—Part 353: Power*

*cables for rated voltages 1 kV and 3 kV, Edition 4.0, 2016–09.* This part of the IEC 60092 series of standards provides manufacturing requirements and characteristics of such cables directly or indirectly bearing on safety and specifies test methods for checking conformity with those requirements. We currently reference the second edition (1995) of this standard in §§ 111.60–1, 111.60–3, and 111.60–5 while the third edition (2011) is referenced in § 111.106–5(a). By means of this rule, we reference instead the more recent edition 4.0 (2016) only in §§ 111.60–1(a), 111.60–5(a) and 111.106–5(a), but not § 111.60–3 because we revise subpart 111.60 regarding cable construction and rescind § 111.60–3. The 2016 edition of this standard includes updates for advancements in insulation and sheathing materials, construction methods, and test methods. Its incorporation ensures consistent, up-to-date standards for electrical cable installations.

• *IEC 60092–354:2014—Electrical installations in ships—Part 354: Single- and three-core power cables with extruded solid insulation for rated voltages 6 kV ($U_m$=7,2 kV) up to 30 kV ($U_m$=36 kV), Edition 3.0, 2014–08.* This part of the IEC 60092 series of standards provides manufacturing requirements and characteristics of such cables directly or indirectly bearing on safety and specifies test methods for checking conformity with those requirements. By means of this rule, we reference this standard in § 111.60–1(a). This aligns Coast Guard requirements with those of recognized classification society rules and industry practice.

• *IEC 60092–360:2014—Electrical installations in ships—Part 360: Insulating and sheathing materials for shipboard and offshore units, power, control, instrumentation and telecommunication cables, Edition 1.0, 2014–04.* This part of the IEC 60092 series of standards specifies the requirements for electrical, mechanical, and particular characteristics of insulating and sheathing materials intended for use in shipboard and fixed and mobile offshore unit power, control, instrumentation, and telecommunication cables. By means of this rule, we reference this standard in § 111.60–1(a). This aligns Coast Guard requirements with those of recognized classification society rules and industry practice.

• *IEC 60092–376:2017—Electrical installations in ships—Part 376: Cables for control and instrumentation circuits 150/250 V (300 V), Third Edition, 2017–05.* This part of the IEC 60092 series of standards provides manufacturing requirements and characteristics of such cables directly or indirectly bearing on safety and specifies test methods for checking conformity with those requirements. By means of this rule, we reference this standard in § 111.60–1(a). This aligns Coast Guard requirements with those of recognized classification society rules and industry practice.

• *IEC 60092–401:1980—Electrical installations in ships—Part 401: Installation and test of completed installation, Third Edition with Amendment 1 (1987–02) and Amendment 2 (1997–04), 1980.* This part of the IEC 60092 series of standards provides general installation and testing requirements for electrical systems and components installed in ships. We currently reference the 1980 edition in §§ 111.05–9 and 111.81–1(d). This rule makes formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but it does not alter the edition incorporated by reference.

• *IEC 60092–502:1999—Electrical installations in ships—Part 502: Tankers—Special features, Fifth Edition, 1999–02.* This part of the IEC 60092 series of standards deals with the electrical installations in tankers carrying liquids that are flammable, either inherently, or due to their reaction with other substances, or flammable liquefied gases. The standard details the zonal concept for hazardous area classification. We currently reference the 1992 edition in §§ 111.81–1, 111.105–31, 111.106–3(b), 111.106–5(c), 111.106–15(a), and 111.108–3(b). By means of this rule, we remove reference to this standard in § 111.105–31 and add it into §§ 111.105–1, 111.105–3(b), 111.105–11(c), 111.105–17(b), 111.105–50(c) as an option for classification of hazardous areas as further explained in Section V.D. This rule also makes formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but does not alter the edition incorporated by reference. Additionally, we allow classification of hazardous locations based on this document, as described in more detail in section VI.D of this preamble.

• *IEC 60092–503:2007(E)—Electrical installations in ships—Part 503: Special features—AC supply systems with voltages in the range of above 1kV up to and including 15 kV, Second edition, 2007–06.* This part of the IEC 60092 series of standards covers the design and installation requirements for AC supply systems with voltages in the range of above 1 kV. We currently reference the first edition (1975) of this standard in § 111.30–5(a). By means of this rule, we reference instead the more recent second edition (2007) of this standard. The second edition covers a greater range of voltages and has updated technical requirements. The ''(E)'' stands for the English version of the standard.

• *IEC 60331–11:1999+A1:2009—Tests for electric cables under fire conditions—Circuit integrity—Part 11: Apparatus—Fire alone at a flame temperature of at least 750 °C, Edition 1.1, 2009–07 (''IEC 60331–11:2009'').* This part of IEC 60331 specifies the test apparatus to be used for testing cables required to maintain circuit integrity when subject to fire. We currently reference the first edition (1999) of this standard in § 113.30–25. By means of this rule, we reference instead the more recent 1.1 edition (2009) of this standard, which includes minor technical updating, to ensure the latest industry practices based on changes in technology are addressed.

• *IEC 60331–21:1999—Tests for electric cables under fire conditions—Circuit integrity—Part 21: Procedures and requirements—Cables of rated voltage up to and including 0.6/1.0 kV, First Edition, 1999–04.* This part of IEC 60331 specifies the test procedure and gives the performance requirement for cables when subject to fire. We currently reference this 1999 edition in § 113.30–25(j). By means of this rule, we make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but this rule does not alter the edition incorporated by reference.

• *IEC 60332–1–1:2015 (Consolidated Version)—Tests on electric and optical fibre cables under fire conditions—Part 1–1: Test for vertical flame propagation for a single insulated wire or cable—Apparatus, First Edition with Amendment 1 (2015–07), 2004–07.* This part of IEC 60332 specifies the apparatus for testing the resistance to vertical flame propagation for a single vertical electrical insulated conductor or cable, or optical cable, under fire conditions. This standard, along with IEC 60332–1–2:2015, supersedes IEC 60332–1:1993, currently referenced in § 111.30–19(b). By means of this rule, we replace the superseded 1993 standard in 111.30–19(b) with IEC 60332–1–1:2015 and IEC 60332–1–2:2015. IEC 60332–1–1:2015 covers the test apparatus, and IEC 60332–1–2:2015 covers the testing procedure. The technical content is similar to the 1993 edition, but has been updated with greater specificity regarding the ignition source, test sample size, and positioning of the test flame.

• *IEC 60332–1–2:2015 (Consolidated Version)—Tests on electric and optical fibre cables under fire conditions—Part 1–2: Test for vertical flame propagation for a single insulated wire or cable—Procedure for 1kW pre-mixed flame, First Edition with Amendment 1, 2015–07.* This part of IEC 60332 specifies the procedure for testing the resistance to vertical flame propagation for a single vertical electrical insulated conductor or cable, or optical cable, under fire conditions. This standard, along with IEC 60332–1–1:2015, supersedes IEC 60332–1:1993, which we currently reference in § 111.30–19(b). By means of this rule, we reference IEC 60332–1–2:2015, regarding the testing procedure, in § 111.30–19(b). The technical content is similar to the 1993 edition, but the updates in the standard provide greater specificity regarding the ignition source, test sample size, and positioning of the test flame.

• *IEC 60332–3–21:2018—Tests on electric and optical fibre cables under fire conditions—Part 3–21: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A F/R, Edition 2.0, 2018–07.* This part of IEC 60332–3 specifies the procedure for testing the resistance to vertical flame propagation for vertically-mounted bunched wires or cables, under defined conditions. Edition 2.0 (2018–7) retains and updates pre-existing categories of tests, adds a new category (category D) for testing at very low non-metallic volumes, and emphasizes that it applies to optical fibre cables as well as metallic conductor cables. By means of this rule, we adopt this standard for incorporation in §§ 111.60–1(b) and 111.107–1(c) as an option testing of flame propagation and consistency with classification society standards as further explained in Section V.D. of this preamble.

• *IEC 60332–3–22:2018—Tests on electric cables under fire conditions—Part 3–22: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A, Edition 2.0, 2018–07.* This part of IEC 60332–3 specifies methods of test for assessment of vertical flame spread of vertically-mounted bunched wires or cables, electrical or optical, under defined conditions. By means of this rule, we remove references to the superseded first edition (2000) of this standard in §§ 111.60–1, 111.60–2, 111.60–6, and 111.107–1. In these sections, we instead reference the more recent edition 2.0 (2018) of this standard. This more recent edition retains and updates the pre-existing categories of tests, adds a new category (category D) for testing at very low non-metallic volumes, and emphasizes that it applies to optical fiber cables as well as metallic conductor cables.

• *IEC 60529:2013 (Consolidated Version)—Degrees of protection provided by enclosures (IP Code), Edition 2.2, 2013–08.* This standard describes a system for classifying the degrees of protection provided by the enclosures of electrical equipment as well as the requirements for these degrees of protection and tests to verify the requirements. We currently reference Edition 2.1 (2001) of this standard in §§ 110.15–1, 111.01–9, 113.10–7, 113.20–3, 113.25–11, 113.30–25, 113.37–10, 113.40–10, and 113.50–5. In these sections, we instead reference the more recent edition 2.2 (2013) of this standard. Edition 2.2 (2013) is a minor technical update to the standard.

• *IEC 60533:2015—Electrical and electronic installations in ships—Electromagnetic compatibility—Ships with a metallic hull, Edition 3.0, 2015–08.* This standard specifies minimum requirements for emission, immunity, and performance criteria regarding electromagnetic compatibility (EMC) of electrical and electronic equipment for ships with metallic hull. We currently reference the second edition (1999) of this standard in § 113.05–7(a). By means of this rule, we instead reference the more recent edition 3.0 (2015) of this standard. This edition includes the following technical changes with respect to the previous edition:

○ The scope and title have been modified to limit the application of the standard to installations in ships with metallic hulls only;

○ The normative references have been updated;

○ Further explanation for in-situ testing has been given in section 5.1;

○ Cable routing requirements in Annex B have been amended; and

○ A new Annex C EMC test report has been added.

• *IEC 60947–2:2019 (Consolidated Version)—Low-voltage switchgear and controlgear—Part 2: Circuit-breakers, Edition 5.1, 2019–07.* This standard provides circuit-breaker construction and testing requirements. We currently reference the third edition (2003) of this standard in § 111.54–1(b). By means of this rule, we instead reference the more recent edition 5.1 (2019) of this standard. The 2019 edition of this standard contains numerous technical updates addressing technical advancements, including circuit-breaker testing, instantaneous trip circuit-breakers, and electromagnetic compatibility.

• *IEC 61363–1:1998—Electrical installations of ships and mobile and fixed offshore units—Part 1: Procedures for calculating short-circuit currents in three-phase a.c., first edition, 1998–02.* This standard outlines procedures for calculating short-circuit currents that may occur on a marine or offshore a.c. electrical installation. By means of this rule, we will make formatting changes to the standard's title for consistency with the titles of all other referenced IEC standards, but this rule does not alter the edition currently incorporated by reference. We currently reference this 1998 edition in § 111.52–5. This rule will move the standard to the new § 111.51–4(b) because we are combining the requirements of subparts 111.51 and 111.52 into a single subpart 111.51 (Calculation of Short-Circuit Currents and Coordination of Overcurrent Protective Devices).

• *IEC 61439–6: 2012—Low-voltage switchgear and controlgear assemblies—Part 6: Busbar trunking systems (busways), Edition 1.0, 2012–05.* This standard states busbar service conditions, construction requirements, technical characteristics, and verification requirements for low voltage busbar trunking systems. By means of this rule, we add it to the revised § 111.59–1 concerning general requirements for busways as an additional option.

• *IEC 61660–1:1997—Short-circuit currents in d.c. auxiliary installations in power plants and substations—Part 1: Calculation of short-circuit currents, First Edition, 1997–06,* with IEC 61660–1:1997/COR1:1999, Corrigendum 1 (March 1999), First Edition; and IEC 61660–1:1997/COR2:2000, Corrigendum 2 (March 2000), First Edition. This standard, including the corrigendums, describes a method for calculating short-circuit currents in DC auxiliary systems in power plants and substations. By means of this rule, we include it in the revised § 111.51–4(b) as an alternative for short-circuit analysis.

• *IEC 61892–7:2019—Mobile and fixed offshore units—Electrical installations—Part 7: Hazardous areas, Edition 4.0, 2019–04.* This standard contains provisions for hazardous areas classification and choice of electrical installation in hazardous areas in mobile and fixed offshore units, including pipelines, pumping or ''pigging'' stations, compressor stations, and exposed location single buoy moorings, used in the offshore petroleum industry for drilling, processing, and for storage purposes. We currently reference Edition 2.0 (2007) of this standard in § 111.108–3(b). By means of this rule, we update

the reference in § 111.108–3(b) to the more recent edition 4.0 (2019) and insert new references to this standard in §§ 111.105–1, 111.105–3(b), and 111.105–17(b). The standard has been completely rewritten. The Explosion Protection Level concept has been introduced as an alternative risk-based classification method and the requirements for installations in hazardous conditions reference IEC 60079–14 and other relevant standards, as appropriate. The incorporation of this standard into subpart 111.105 provides an alternate standard for classifications for hazardous locations.

• *IEC 62271–100:2017 (Consolidated Version)—High-voltage switchgear and controlgear—Part 100: Alternating-current circuit-breakers, Edition 2.2, 2017–06.* This standard provides construction and testing requirements for circuit-breakers having voltages above 1000 V. We currently reference Edition 1.1 (2003) of this standard in § 111.54–1(c). By means of this rule, we reference the more recent edition 2.2 (2017) of this standard. There have been numerous technical updates to address technical advancements in switchgear. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *IEC/TR 60092–370:2009—Technical Report—Electrical installations in ships—Part 370: Guidance on the selection of cables for telecommunication and data transfer including radio-frequency cables, Edition 1.0, 2009–07.* This technical report gives guidance and basic recommendations for the selection and installation of shipboard and offshore unit cables intended for electrical systems used in both essential and non-essential analogue or digital signal communication, transmission, and control networks, including types suitable for high-frequency signals (*i.e.,* signals with a frequency of more than $10^5$ Hertz). By means of this rule, we reference this new standard in § 111.60–1. This aligns our requirements with those of recognized classification society rules and industry practice.

• *IEC/IEEE 80005–1:2019—Utility connections in port—Part 1: High voltage shore connection (HVSC) systems—General requirements, Edition 2.0, 2019–03.* This standard describes the design, installation, and testing of HVSC systems, on board the ship and on shore, to supply the ship with electrical power from shore. Ships may be required by state or local laws to connect to high voltage shore power (over 1000 V) rather than running their onboard generators. Some ships may voluntarily connect to an HVSC. In § 111.83–7, we provide this standard as a recommended compliance standard for all applicable vessels that connect to an HVSC.

• *SOLAS Consolidated Edition 2014, Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: article, annexes and certificates. (Incorporating all amendments in effect from 1 July 2014), Sixth edition, 2014.* SOLAS provides requirements for vessel construction, arrangement, and management on international voyages. We reference SOLAS 2001 requirements in §§ 111.99–5, 112.15–1, and 113.25–6 and, by means of this rule, incorporate instead the 2014 edition of SOLAS. While the applicable sections of SOLAS referenced in these requirements were not changed in the 2014 edition, we are incorporating these SOLAS amendments for completeness because industry is likely to use the more recent edition.

• *IMO Resolution A.1023(26)—Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009.* We make a non-substantive formatting change to the listing of this resolution in § 110–10–1(b). Chapter 6 of this resolution is referenced in § 111.108–3(b). The resolution provides requirements for machinery and electrical installations in hazardous areas of mobile offshore drilling units.

• *ISA RP 12.6—Wiring Practices for Hazardous (Classified) Locations Instrumentation Part I: Intrinsic Safety, 1995.* By means of this rule, we delete this standard from reference in § 111.105–11. It has been withdrawn by ISA and has been superseded by ANSI/ISA RP 12.06.01 (2003), which we incorporate by reference in § 111.105–11.

• *ISO 25861:2007(E)—Ships and marine technology—Navigation—Daylight signalling lamps, first edition, Dec, 1, 2007.* By means of this rule, we reference this standard in § 111.75–18 regarding daylight signaling lamps. This standard provides performance requirements for daylight signaling lamps pursuant to chapter V of SOLAS, 1974, as amended, and chapter 8 of the International Code for Safety for High-Speed Craft. The performance standards for daylight signaling lamps currently in § 111.75–18 are based on the international requirements in place in 1996, but the requirements contained in ISO 25861:2007 superseded those requirements. The ''(E)'' stands for the English version of the standard.

• *Lloyd's Register Type Approval System-Test Specification Number 1, March 2019.* Lloyd's Register is a vessel classification society that develops and publishes a comprehensive set of rules for the construction and maintenance of ships and offshore facilities. The rules are, in general, developed by IACS and by Lloyd's Register staff, and passed upon by committees made up of naval architects, marine engineers, shipbuilders, engine builders, steel makers and other technical, operating, and scientific personnel associated with the worldwide maritime industry. Because of classification society rules' comprehensive nature and long history of ensuring vessel safety and seaworthiness, they are a valuable supplement to the numerous voluntary consensus standards incorporated by reference. This specification details performance and environmental testing required for products used in marine applications. We currently reference the 2002 edition of this standard in § 113.05–7(a). By means of this rule, we reference the more recent 2019 edition. It has been updated several times to keep pace with changes in environmental testing.

• *NEMA ICS 2–2000 (R2005)—Industrial Control and Systems Controllers, Contactors, and Overload Relays, Rated 600 Volts, 2000.* This standard provides practical information concerning ratings, construction, test, performance, and manufacture of industrial control equipment. This edition is referenced in § 111.70–3. NEMA reaffirmed the edition without change in 2005. By means of this rule, we include the reaffirmed version of this standard, which results in no substantive changes.

• *NEMA ICS 2.3–1995—Instructions for the Handling, Installation, Operation, and Maintenance of Motor Control Centers Rated not More Than 600 Volts, 1995 (R2008).* This standard provides practical information containing instructions for the handling, installation, operation, and maintenance of motor control centers rated 600 volts or less. This edition is referenced in § 111.70–3. NEMA reaffirmed the edition without change in 2008. By means of this rule, we include the reaffirmed version of this standard, which results in no substantive changes.

• *NEMA ICS 2.4–2003 (R2102)—NEMA and IEC Devices for Motor Service—a Guide for Understanding the Differences, 2003.* This edition is referenced in § 111.70–3. This standard provides practical information concerning the differences between NEMA and IEC in ratings, construction, test, performance, and manufacture of industrial control equipment. NEMA reaffirmed the edition without change in 2012. By means of this rule, we include

the reaffirmed version of the standard, which results in no substantive changes.

• *NEMA 250–2018—Enclosures for Electrical Equipment (1000 Volts Maximum), 2018.* This standard covers classification of enclosures for electrical equipment as well as the requirements for these enclosures and tests to demonstrate conformance with the requirements. We currently reference the 1997 edition of this standard in §§ 110.15–1(b), 111.01–9, 113.10–7, 113.20–3, 113.25–11(a), 113.30–25(e), 113.37–10(b), 113.40–10(b), and 113.50–5(g). By means of this rule, we reference the more recent 2014 edition in these sections. The 2014 edition added several new enclosure types as well as several minor construction details.

• *NEMA Standards Publication No. WC–3–1992—Rubber Insulated Wire and Cable for the Transmission and Distribution of Electrical Energy, Revision 1, Feb. 1994.* This is one of many options listed as a standard for allowable current-carrying capacity. By means of this rule, we delete this as an option under § 111.60–13(c) because NEMA has rescinded the standard.

• *ANSI/NEMA WC–70—Power Cables Rated 2000 Volts or Less for the Distribution of Electrical Energy, Feb. 23, 2009.* This standard applies to materials, constructions, and testing of 2000 V and less thermoplastic, cross-linked polyethylene, and cross-linked rubber insulated wires and cables that are used for the transmission and distribution of electrical energy for normal conditions of installation and service, either indoors, outdoors, aerial, underground, or submarine. We currently reference the 1999 edition of this standard, NEMA WC–70, in § 111.60–13. By means of this rule, we reference the more recent 2009 edition with the updated naming convention. The 2009 standard contains updates based on advancements in technology, including new cable jacket types and updated testing methods.

• *NFPA 70—National Electrical Code, 2017 Edition.* This code contains standards for the installation and removal of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways. It is referenced in many sections of subchapter J and is the basis for electrical regulations worldwide. Currently, both the 2002 and 2011 editions of the code are incorporated by reference in §§ 111.05–33, 111.20–15, 111.50–3, 111.50–7(a), 111.50–9, 111.53–1(a), 111.54–1(a), 111.55–1(a), 111.59–1, 111.60–7, 111.60–13, 111.60–23, 111.81–1(d), 111.105–1, 111.105–3, 111.105–7(a), 111.105–11, 111.105–17(b), 111.106–3(b), 111.106–5(c), 111.107–1(b) and 111.108–3(b)(1) and (2). By means of this rule, we replace these references with a reference to the more recent 2017 edition in all the aforementioned sections where the NFPA 70 code is referenced except for § 111.105–7, which we are merging into § 111.105–3. We also include § 110.15–1 in the list of sections referencing NFPA 70 because NFPA 70 is currently used in the definition of ''Special Division 1.'' Substantive changes to the NFPA 70 articles from the previous editions include the following:

○ Article 240—This article on overcurrent protection raised the threshold for high voltage overcurrent protection from 600 V to 1000 V. Additionally, it addresses arc energy reduction of fuses rated at 1200A or higher.

○ Article 250.119—Section 250.119 details the identification requirements for equipment grounding conductors. The 2017 and 2002 editions are similar, but the 2017 edition contains greater specificity for specific installations and prohibits other cables to be covered in manner that could confuse them with equipment grounding conductors.

○ Article 250.122—Section 250.122 details requirements for the size of equipment grounding conductors. The content in the two editions is similar, but the 2017 edition adds requirements for multi-conductor cable, consideration of instantaneous-trip circuit breakers or motor short-circuit protectors, and greater specificity for flexible cord and fixture wire.

○ Article 250—This article on grounding conductors has been updated based on changes in technology and has added requirements for conductors in raceways and multiconductor cable.

○ Article 314—This article on outlet or junction boxes has several minor updates based on changes in technology or industry practices.

○ Article 368—This article on busways was reformatted, and the threshold for high voltage busways was raised from 600 V to 1000 V. Additionally, it provides more detailed wiring requirements.

○ Article 400—This article on flexible cords and cable provides several additional types of flexible cords as well as conductor sizes, but the allowable ampacities for the existing types of flexible cords and cables have not changed. Additionally, it requires that the maximum operating temperature be added to the required markings.

○ Article 404—The applicability of this article on switches has been raised from 600 V systems to 1000 V systems, and several additional switch types have been added.

○ Article 430—This article on motors now raises the threshold for motors requiring additional protective measures from 600 V to 1000 V. Part X has been added to provide greater detail on adjustable-speed drive systems. Additionally, a variety of minor technical updates have been adopted, including adding references to the latest standards.

○ Article 450—This article on transformers raised the transformer threshold for high voltage transformers from 600 V to 1000 V. Additionally, minor editorial changes were made. For example, in several sections the word ''sufficient'' was replaced with ''not less than'' to ensure the intent was clear.

○ Article 504—Sections 504.10, 504.30, 504.50 and 504.60 on intrinsically safe system design will be added in § 111.105–11 because ISA RP 12.6 has been withdrawn by ISA. The requirements are similar, and NFPA is the authoritative standard for electrical engineering design.

• *NFPA 77—Recommended Practice on Static Electricity, 2019 Edition.* This recommended practice applies to the identification, assessment, and control of static electricity for purposes of preventing fires and explosions. We currently reference the 2000 edition of this standard in § 111.105–27(b). By means of this rule, we reference instead the more recent 2019 edition, which has been completely reorganized with only minor changes to the technical content. However, the 2019 edition contains changes regarding the characterization of low, medium, and high resistivity powders to reflect generally accepted international standards.

• *NFPA 99—Health Care Facilities Code, 2018.* This code provides information on health care facilities related to medical gas and vacuum systems, electrical systems, electrical equipment, and gas equipment. We currently reference the 2005 edition of this standard in § 111.105–37. By means of this rule, we instead reference the more recent 2018 edition. The 2018 standard contains extensive updates and is the authoritative reference for flammable anesthetics.

• *NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2017 Edition.* This standard applies to purging and pressurizing for electrical equipment in hazardous locations, electrical equipment containing sources of flammable vapors, control rooms or buildings in hazardous locations, and analyzer rooms containing sources of flammable vapors or gases and located

in hazardous locations. NFPA 496 has been an industry standard for purged and pressurized enclosures since 1971. We currently reference the 2003 edition of this standard in § 111.105–7, the 2008 edition is currently referenced in § 111.106–3(c), and the 2013 edition is currently referenced in § 111.108–3(d). By means of this rule, we update the references to the more recent 2017 edition in §§ 111.105–3 (formerly § 111.105–7), 111.106–3(c), and 111.108–3(d). This more recent edition of NFPA 496 was revised to ensure correlation with NFPA 70. The definitions of ''energized'' and ''identified'' are extracted from NFPA 70, clarify the requirements for equipment in hazardous areas, clarify the definitions of Type X, Type Y, and Type Z pressurization, and remove unspecific language such as ''near,'' ''close to,'' and ''significant portion.'' Such terms cannot be quantified in the design or evaluation of an installation designed to the standard.

• *Naval Sea Systems Command (NAVSEA) DDS 300–2—A.C. Fault Current Calculations, 1988.* By means of this rule, we will remove this standard from subchapter J because it is no longer supported or available. This is one of four options for fault calculations in § 111.52–5. We reorganize the requirements for short-circuit calculations for systems 1500 kW or above in § 111.52–5 into new § 111.51–4. The other three options that are currently in § 111.51–4 are still included in the new § 111.51–4.

• *MIL–HDBK–299(SH), 1991—Military Handbook Cable Comparison Handbook Data Pertaining to Electric Shipboard Cable Notice 1–1991.* This document provides basic information on, and listings of, shipboard cables and also provides guidance for their design, handling, installation, and maintenance. This current edition is referenced in § 111.60–3 regarding cable applications. By means of this rule, we delete this standard because we are also rescinding § 111.60–3, which we discuss in section VI.C of this preamble, because we have found that it is unnecessarily prescriptive.

• *UL 44—Standard for Safety Thermoset-Insulated Wire and Cable, 2018.* This standard specifies the requirements for single-conductor and multiple-conductor thermoset-insulated wires and cables rated 600 V, 1000 V, 2000 V, and 5000 V. We currently reference the fifteenth edition (1999) of this standard in § 111.60–11(c). By means of this rule, we reference the nineteenth edition (2018). The standard has been completely updated based on changes in technology and now addresses wires and cables up to 5000 V. Previously this standard did not cover wires or cables above 2000V. Additionally, the nineteenth edition (2018) addresses new wire types and maximum voltage ratings that were not included in the fifteenth edition (1999).

• *UL 50—Standard for Safety Enclosures for Electrical Equipment,* Non-Environmental Considerations, *2015.* This standard covers the non-environmental construction and performance requirements for enclosures to protect personnel against incidental contact with the enclosed equipment. We currently reference the eleventh edition (1995) of this standard in § 111.81–1(d). By means of this rule, we reference the more recent thirteenth edition (2015). The updated standard addresses the following items that were not included in the eleventh edition (1995):

○ Environmental Type ratings 3X, 3RX, and 3SX;

○ Sharp edges on electrical equipment;

○ Requirements for slot and tab fastenings;

○ Clarification of types of cast metal suitable for use as an enclosure;

○ Equipment door opening 90 degrees from the closed position;

○ Certification Requirement Decision for nonmetallic-sheathed cable clamps; and

○ Revision to requirement of cover and flange overlap for cabinets used as panelboards.

• *UL 62—Standard for Safety Flexible Cords and Cables, 2018.* This standard specifies the requirements for flexible cords, elevator cables, electric vehicle cables, and hoistway cables rated 600 V maximum. We currently reference the sixteenth edition (1997) of this standard in § 111.60–13(a). By means of this rule, we reference the more recent twentieth edition (2018). This standard has been updated based on advancements in technology to address new cable types, jacket types, and testing techniques. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *UL 83—Standard for Safety Thermoplastic-Insulated Wires and Cables, 2017.* This standard specifies the requirements for 600 V, single-conductor, thermoplastic-insulated wires and cables. We currently reference the twelfth edition (1998) of this standard in § 111.60–11(c). By means of this rule, we reference the sixteenth edition (2017). The standard has been completely updated based on changes in technology. For example, it now addresses many new types of wire, wire sizes, and updated testing requirements.

• *UL 484—Standard for Safety Room Air Conditioners, 2014.* This standard provides requirements for room air conditioners rated not more than 600 V AC. We currently reference the seventh edition (1993) of this standard in § 111.87–3(a). By means of this rule, we reference the more recent, ninth edition (2014). The standard has been updated to account for current technology and environmental testing. In addition, sections dealing with smart air conditioners and air conditioners using flammable refrigerants have been added. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *UL 489—Standard for Safety Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures, 2016.* This standard provides requirements for molded-case circuit breakers, circuit breaker and ground-fault circuit-interrupters, fused circuit breakers, high-fault protectors, and high-fault modules. These circuit breakers are specifically intended to provide service entrance, feeder, and branch circuit protection. We currently reference the ninth edition (1996) of this standard in §§ 111.01–15(c) and 111.54–1(b). By means of this rule, we reference the thirteenth edition (2016). There have been numerous technical updates to the standard. The scope has been increased to address component testing, programmable components, electronic overprotection, and electromagnetic compatibility. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *UL 514A—Standard for Safety Metallic Outlet Boxes, 2013.* This standard has been an industry standard for metallic outlet boxes since 1928 and provides requirements for metallic outlet boxes including those intended for marine applications. We currently reference the ninth edition (1996) of this standard in § 111.81–1(d). By means of this rule, we reference the more recent eleventh edition (2013). UL 514A has been revised and updated to account for advancements in outlet box construction.

• *UL 514B—Standard for Safety Conduit, Tubing, and Cable Fittings,* revised November 21, 2014. This standard provides requirements for fittings for use with cable and conduit. We currently reference the fourth edition (1997) of this standard in § 111.81–1(d). By means of this rule, we reference the more recent sixth edition (2014). UL 514B has been updated to

account for advancements in conduit, tubing, and cable fitting construction, as well as testing techniques. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *UL 514C—Standard for Safety Nonmetallic Outlet Boxes, Flush-Device Boxes, and Covers,* revised December 10, 2014. This standard provides requirements for nonmetallic outlet boxes, conduit bodies, flush-device boxes, extension rings, and covers. We currently reference the second edition (1988) of this standard in § 111.81–1(d). By means of this rule, we will reference the more recent fourth edition (2014). UL 514C has been updated to align with advancements in nonmetallic outlet boxes and requirements in similar standards. To ensure we address the latest technologies and industry practices, we incorporate the more recent edition of this standard.

• *UL 674—Standard for Safety: Electric Motors and Generators for Use in Hazardous (Classified) Locations, 2011.* This standard provides requirements for electric motors and generators or submersible and non-submersible sewage pumps and systems suitable for use in hazardous (classified) locations. We currently reference the fourth edition (2003) of this standard in § 111.106–3(b) and the fifth edition (2011) in § 111.108–3(b). By means of this rule, we reference the more recent fifth edition (2011) in § 111.106–3(b), and add a reference to this edition in § 111.105–3(b). This ensures consistent, up-to-date standards for electrical installations on all vessel and facility types.

• *UL 823—Electric Heaters for Use in Hazardous (Classified) Locations,* revised November 15, 2007. This standard provides requirements for electric heaters suitable for use in hazardous (classified) locations. We currently reference the ninth edition (2007) of this standard in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference the ninth edition (2007) in § 111.105–3(b) as well. This ensures that standards are consistent for electrical installations on all vessel and facility types.

• *UL 844—Standard for Safety: Luminaires for Use in Hazardous (Classified) Locations, 2012.* This standard provides requirements for fixed and portable luminaires for installation and use in hazardous (classified) locations. We currently reference the twelfth edition (2006) of this standard in § 111.106–3(b) and the thirteenth edition (2012) in § 111.108–3(b). By means of this rule, we reference the more recent thirteenth edition (2012) in § 111.106–3(b), and add a reference to this edition in § 111.105–3(b). This latest edition includes the following minor technical revisions:

○ Revisions for test paint for spray booth luminaires;

○ Revisions for temperature tests at elevated ambient temperatures; and

○ Clarification of required number of as-received samples of polymeric enclosure materials.

• *UL 913—Standard for Safety: Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, Eighth Edition, 2013.* This standard provides requirements for apparatus or parts of apparatus intended for installation in hazardous locations. We currently reference the sixth edition (2002) of this standard in § 111.105–7(a) and the seventh edition (2006) in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we remove references to these earlier editions and reference the more recent eighth edition (2013) in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). This latest edition includes the following technical revisions:

○ Revisions to reference the latest 2013 editions of UL 60079–0 and UL 60079–11;

○ Deletion of redundant references to applicable ordinary locations requirements;

○ Revisions to address the equivalent installation and use of Class I, Division 1 and Class II intrinsically safe and associated apparatus in Zone 20 hazardous (classified) locations respectively; and

○ Revisions to dust-tight enclosures for Class II Intrinsically Safe Apparatus.

• *UL 1042—Standard for Safety Electric Baseboard Heating Equipment,* revised September 9, 2014. This standard provides requirements for portable and fixed electric baseboard heating equipment rated at 600 V or less. We currently reference the third edition (1994) of this standard in § 111.87–3. By means of this rule, we reference the more recent fifth edition (2014). This latest edition includes the following technical revisions:

○ Revisions requiring portable heater power supply cords to meet UL 817;

○ Revisions requiring electric connections to meet established UL standards, UL 310, UL 486A–486B, UL 886C, UL 486E, or UL 1977;

○ Revisions to equipment grounding provisions; and

○ Update to the leakage current test.

• *UL 1072—Standard for Safety Medium-Voltage Power Cables,* revised June 19, 2013. This standard provides requirements for shielded and non-shielded medium-voltage power cables. We currently reference the third edition (2001) of this standard in § 111.60–1(a). By means of this rule, we reference the more recent fourth edition (2013). The fourth edition contains revised supplemental jacket thicknesses. Because supplemental jackets are only required for cables intended to be buried in the ground, this revision has no substantive impact on UL 1072 cables intended for use on vessels.

• *UL 1104—Standard for Safety for Marine Navigation Lights, Second Edition, 1998.* This standard provides construction and testing requirements for navigation lights. This standard is referenced in § 111.75–17(d). By means of this rule, we will align the naming convention in the regulatory text with that of other UL standards and specifically cite paragraph (d) in § 110–10–1(q).

• *UL 1203—Standard for Safety: Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations,* revised April 24, 2015. This standard covers explosion-proof and dust-ignition-proof electrical equipment for installation and use in hazardous locations. We currently reference the third edition (2000) of this standard in § 111.105–9 and the fourth edition (2006) in §§ 111.106–3(b) and 111.108–3(b). By means of this rule, we reference the more recent fifth edition (2015) in § 111.105–3(b) instead of § 111.105–9 due to editorial reformatting of subpart 111.105, as well as §§ 111.106–3(b) and 111.108–3(b). The more recent edition has relatively minor technical clarifications with minimal substantive changes.

• *UL 1309—Standard for Safety Marine Shipboard Cables, 2017.* This standard provides requirements for distribution (power), control, and signal cables for installation aboard marine vessels, fixed and floating offshore petroleum facilities, and MODUs. We currently reference the first edition (1995) of this standard in §§ 111.60–1, 111.60–3, and 111.106–5(a). By means of this rule, we reference the more recent third edition (2017) only in §§ 111.60–1 and 111.106–5(a) because we delete § 111.60–3. The standard has received updates to its construction, performance, ratings, and markings requirements.

• *UL 1581—Standard for Safety Reference Standard for Electrical Wires, Cables, and Flexible Cords, 2001.* By means of this rule, we delete references to this standard in §§ 111.30–19, 111.60–2, and 111.60–6 because the referenced test in this standard, VW–1,

has been moved to UL 2556, which is added to these sections as discussed below.

• *UL 1598—Standard for Safety Luminaires, 2018.* This standard provides requirements for luminaires for use in nonhazardous locations that are intended for installation on branch circuits of 600 V nominal or less. We currently reference the first edition (2000) of this standard in § 111.75–20. By means of this rule, we reference the more recent fourth edition (2018), which has been extensively updated based on changes in technology and construction techniques. This edition includes added requirements for placement and construction of LED luminaires as well as LED test methods. The standard also includes LED components and subassemblies, and other LED requirements.

• *UL 1598A—Standard for Safety Supplemental Requirements for Luminaires for Installation on Marine Vessels, First Edition (with revisions through Apr. 17, 2015), Dec. 4, 2000.* UL 1598, the First Edition, December 4, 2000, is currently incorporated by reference in § 111.75–20. By means of this rule, we incorporate UL 1598A, the First Edition with revisions through April 17, 2015 in that section. UL 1598A provides additional requirements for luminaires meeting UL 1598 and intended for vessels to ensure these luminaires are suitable for marine and shipboard environments. The revisions to the First Edition include non-substantive updates necessary due to changes in clauses of standards referenced within UL 1598A that occurred since publication of the First Edition.

• *UL 1604—Electrical Equipment for use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations, 1994.* This was one of many options in § 111.108–3(b) for standards on electrical equipment in hazardous locations. By means of this rule, we delete this standard from § 111.108–3(b) because UL withdrew this standard and it is no longer active.

• *UL 2021—Standard for Safety Fixed and Location-Dedicated Electric Room Heaters, 2015.* By means of this rule, we reference this standard in § 111.87–3(a) for the first time. This standard provides requirements for electric air heaters. It will be an additional standard regulated entities may choose for electric air heaters. The Coast Guard has previously accepted it on a case-by-case basis as equivalent to the existing standards in § 111.87–3(a).

• *UL 2225—Standard for Safety: Cables and Cable-Fittings for use in Hazardous (Classified) Locations, 2013.* This standard contains construction and testing requirements for cables and cable-fittings for use in hazardous locations. We currently reference the second edition (2005) of this standard in § 111.106–3(b) and the third edition (2011) of this standard in § 111.108–3(b). By means of this rule, we reference the more recent fourth edition (2013) in §§ 111.105–3(b), 111.106–3(b), and 111.108–3(b). The latest edition includes the addition of Type TC–ER–HL cable for use in Class I, Zone 1 as permitted by the 2014 National Electrical Code to the scope, editorial revisions, and error corrections. The incorporation of this edition into all three sections ensures consistent, up-to-date standards for electrical installations on all vessel and facility types.

• *UL 2556—Wire and Cable Test Methods, 2015.* This standard describes the apparatus, test methods, and formulas to be used in carrying out the tests and calculations required by wire and cable standards. The flame retardant test VW–1, formerly of UL 1581, has been moved to this standard and is now called FV–2/VW–1. By means of this rule, we will replace UL 1581 with UL 2556 in §§ 111.30–19(b), 111.60–2, and 111.60–6.

• *UL 60079–18—Standard for Safety Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation ''m'', Fourth Edition,* revised February 20, 2017. By means of this rule, we adopt this standard as a replacement for ANSI/ISA 60079–18, which was withdrawn by ISA. UL 60079–18 is not substantively different than ANSI/ISA 60079–18. This standard gives the specific requirements for the construction, testing and marking of electrical equipment, parts of electrical equipment and Ex components with the type of protection encapsulation ''m'' intended for use in explosive gas atmospheres or explosive dust atmospheres. We reference this standard in §§ 111.105(e), 111.106–3(d), and 111.108–3(e).

*B. Generator Prime Movers*

By means of this rule, we will delete the requirements in §§ 111.12–1(b) and (c) for each generator prime mover to have an independent overspeed device and to automatically shut down upon a loss of lubricating oil pressure to the generator bearing. The Coast Guard has required generator prime movers to meet ABS rules since 1965. We incorporate the ABS Steel Vessel Rules for generator prime movers without modification to reduce reliance on government-unique standards where an existing voluntary standard will suffice, as advocated in OMB Circular A–119. The ABS Steel Vessel Rules, which are already incorporated by reference in § 58.01–5,[6] require these same safeguards on all but small generator prime movers. The independent overspeed device is required for each engine driving a generator of 220 kW (295 horsepower (hp)) and above, while the oil pressure shutdown is required for generators of 100 kW (135 hp) and above. Because vessels will have to comply with the ABS Steel Vessel Rules, there is no need to duplicate these requirements in § 111.12–1, and we find that the requirements in the incorporation by reference sufficiently address the concerns that § 111.12–1(b) and (c) were intended to address.

*C. Electrical Cable*

This rule updates and amends subpart 111.60 (Wiring Materials and Methods) to align it more closely with the standards accepted internationally by vessel classification societies and foreign administrations.

This rule adds additional acceptable cable construction standards to § 111.60–1. In addition, due to the availability of widely accepted additional standards, this rule removes many of the more prescriptive cable requirements in §§ 111.60–3 and 111.60–4.

We also are rescinding § 111.60–3, which sets out the cable application regulations, because we find that those regulations are unnecessarily prescriptive. Instead, entities will consult the cable construction standards in § 111.60–1, as revised by this rule, for the application of specific types of cable.

In § 111.60–5(a), the Coast Guard currently requires that cable installations meet the recommended practices contained in IEEE 45–2002, and we excluded the section concerning cable splices. Now we will update the edition to IEEE 45.8–2016 and remove the exclusion for the section on cable splices because it is inconsistent with other regulations to exclude them. Both the existing and revised regulations regarding cable splices in § 111.60–19 refer to IEEE 45's recommendations for cable splices.

[6] We note that § 58.01 currently incorporates by reference the 2003 edition of the ABS Steel Vessel Rules. On October 18, 2021 we proposed in Updates to Marine Engineering Standards, 86 FR 57896 (Oct. 19, 2021) (proposed rule) to update the reference in § 58.01 to the 2020 edition of the ABS Marine Vessel Rules.. This is the same edition incorporated by reference in § 110.10–1(a). If we amend § 58.01 through a final rule on this same topic, any changes made would not conflict with the intent of § 111.12–1. Generator prime movers will have to meet the ABS Marine Vessel Rules incorporated by reference in § 58.01.

Additionally, in Table 111.60–7—Demand Loads, we make minor edits so that ''bus-tie'' and ''feeder'' are plural where they appear in the table. As previously mentioned in the IBR updates to § 110.10–1, we will also update the NFPA NEC 2002 standard to its newer edition, NFPA 70, where it appears in the table.

In the NPRM, we proposed to update the existing IEEE 45 reference in § 111.60–11(c) to section 5.7 of the 2016 version. A commenter correctly noted this section does not address wire, so we removed section 5.7 of IEEE 45.8 from the list of standards. The final rule leaves the following updated standards to choose from: NPFC MIL–W–76D, ANSI/UL 44, ANSI/UL 83, or an equivalent standard.

*D. IEC 60092–502 Electrical Installations in Ships—Part 502: Tankers—Special Features*

This rule amends our regulations for hazardous locations contained in Subpart 111.105 to allow the Coast Guard to accept IEC 60092–502:1999 as an option for classification of hazardous locations (areas) in the new § 111.105–50. New section 111.105–50(a) contains an alternative standard for the classification of hazardous locations requirements in §§ 111.105–29, 111.105–31, 111.105–32, 111.106–9 and 111.106–11 of this subchapter. This section provides instructions for how to use the IEC 60092–502:1999 option for the classification of hazardous locations as well as specific requirements for ventilation systems if system designers use IEC 60092–502:1999. This IEC standard is referenced in *SOLAS II–1/45.11, the International Code of the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk section 10.1.1, the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk section 10.1.2.1,* and all major classification societies' rules. Allowing this option will provide system designers with the flexibility to classify and specify equipment for hazardous locations using the same scheme used internationally.

IEC 60092–502:1999 is currently accepted for use by vessels in the Coast Guard's ACP when supplemented with ''USCG Supplemental Requirements for use of IEC 60092–502:1999 for application of SOLAS regulation II–1/45.11 to U.S.-flag vessels.'' [7] The Coast Guard developed these supplemental requirements to ensure an equivalent level of safety as the requirements of subpart 111.105. Through this rule, the Coast Guard will accept IEC 60092–502:1999 without the supplement. This edition of the standard has been published for over 15 years, and we are not aware of any casualty history attributed to its use as compared to vessels complying with the applicable U.S. regulations. For these reasons, we will accept it as an option for U.S. vessels.

In § 111.105–50(c), we specify that if IEC 60092–502:1999 is used for hazardous locations classifications, then the applicable ventilation requirements for cargo handling rooms on tank vessels in subchapter D apply. This is not a new requirement, but it is placed here to ensure system designers do not assume that compliance with the ventilation standards in IEC 60092–502:1999 is sufficient. As noted in the discussion of the comment section, this final rule also clarifies that the mechanical ventilation must be capable of at least 30 air changes per hour, based upon the gross volume of the space, for cargo handling or pump rooms and other spaces where hazardous location classification is dependent upon ventilation.

In the final rule, we also break down paragraph (c) into multiple subparagraphs to help with readability. This change is an editorial amendment that does not result in any substantive changes from what we proposed in the NPRM.

*E. Emergency Generator in Port*

This rule amends our regulations for a vessel's emergency power sources contained in subpart 112.05 to allow the emergency generator to be used in port in the new § 112.05–7. The current regulations in § 112.05–1 require that the emergency source of power must be dependable, independent, and dedicated. The purpose of these requirements in § 112.05–1 is that emergency power must be immediately and dependably available in the event of a loss of the ship's service power. For decades this has been achieved by installation of a dedicated and independent emergency generator.

In the late 1990s, IACS proposed a unified interpretation to the IMO in light of improvements in automation and potential environmental benefits. That proposal incorporated a set of additional safety standards in order to allow the use of an emergency generator during lay time in port. This interpretation, with the supplemental safety standards, would encourage the use of a more appropriately sized generator for lay time loads instead of an overly large ship service generator while simultaneously assuring the availability of emergency power. The IMO subsequently adopted this proposal in 2005, promulgated it in IMO circular MSC/Circ.1176 (dated May 25, 2005), and updated it in IMO circular MSC.1/Circ. 1464/Rev.1 (dated October 24, 2013). Since then, most classification societies and flag states have harmonized their rules to align with this interpretation.

Similar to the IMO, by means of this rule we will allow use of emergency power systems that incorporate a generator with the additional safeguards similar to those prescribed by the IMO. The additional safeguards provide an equivalent level of safety as the existing requirements in part 112 as well as other potential operational benefits. With respect to providing a dependable source of emergency power, operation of the emergency generator in port does not decrease the dependability of the emergency power system. On the contrary, regular operation of the generator with the associated planned maintenance scheme required by MSC.1/Circ.1464/Rev.1 will result in increased dependability and crew familiarity and an improved readiness of the system should an emergency situation occur. Further, the additional requirements related to load shedding, fuel and lubrication oil systems, generator and switchboard construction, power management, and operational instructions will ensure the dedicated and independent operation of this system in an emergent situation and solely provide service to the emergency power system. Overall, this system will deliver additional flexibility to the crew while ensuring the availability of a dedicated source of power in the event of an emergency. The arrangements will result in improved performance, better fuel economy, lower emissions, and higher reliability than less integrated systems.

For these reasons, this rule will allow the emergency generator to be used in port provided that supplemental safety standards are in place. The supplemental safety standards incorporated in § 112.05–7 are similar to those prescribed in MSC.1/Circ.1464/Rev.1 as well as section 4–8–2/5.17 of the ABS Marine Vessel Rules.

[7] See Commercial Vessel Inspection Alternatives and Delegated Functions, available at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Office-of-Standards-Evaluation-and-Development/US-Coast-Guard-Regulatory-Development-Program-RDP-/Alternate-Compliance-Program/.*

*F. Description of Additional Changes Within Subchapter J*[8]

§ 110.15–1 Definitions

This rule adopts a more descriptive definition of ''deadship'' that aligns with 4–1–1/1.9.6 of the ABS Marine Vessel Rules and IEC 60092–201:2019.

The definition of a ship's service loads and drilling loads are moved from § 111.10–1(a) to § 110.15–1 so that all definitions for subpart J are in one location.

§ 110.25–1 Plans and Information Required for New Construction

We have consolidated the hazardous locations plan submittal requirements of the existing § 110.25–1(i), (p), and (q) into a single section, § 110.25–1(i). The ''Offshore Supply Vessels of at Least 6,000 GT ITC'' interim rule (79 FR 48893, Aug. 18, 2014) and the ''Electrical Equipment in Hazardous Locations'' final rule (80 FR 16980, Mar. 31, 2015) included plan submittal requirements, §§ 110.25–1(p) and (q), respectively. As explained in Section V, we will offer all types of vessels and facilities the same selection of explosion protection standards. Therefore, the plan submittal requirements are identical, and three separate sections are no longer required.

This rule makes one addition to the list of required items to be on the plan submission under existing § 110.25–1(i). The plan must clearly indicate the method of classification, Division or Zone, of the hazardous location. This information is important to ensure appropriate selection of equipment for the hazardous location.

§ 111.05–3 Design, Construction, and Installation; General

In § 111.05–3(c), we clarify the grounding requirements for appliances and tools so that the requirements are consistent with current industry practice.

§ 111.10–9 Ship's Service Supply Transformers; Two Required

This rule revises the note to § 111.10–9 to clarify that transformers located downstream of the ship's service switchboard are not required to be provided in duplicate. This item is regularly misunderstood. This revision is consistent with the explanation on page 16 of NVIC 2–89, ''Guide for Electrical Installations on Merchant Vessels and Mobile Offshore Drilling Units,'' dated August 14, 1989.[9]

§ 111.12–11 Generator Protection

In this section and many other sections, we replace the term ''semiconductor rectifier (SCR)'' with ''semiconductor converter,'' which is a term now more commonly used in industry.

§ 111.12–13 Propulsion Generator Protection

We are deleting this section on propulsion generator protection because it is simply a reference to § 111.35–1. This cross-reference is not necessary.

§ 111.15–10 Ventilation

In § 111.15–10(b)(2)(i), we add the IEC equivalent classification of Class I, Division 1, Group B as an alternate standard.

§ 111.25–5 Marking

Under § 111.25–1, motors are required to meet the requirements for generators in § 111.12–5. That section in turn incorporates by reference section 4–8–3 of the ABS Marine Vessel Rules, which means that motors must meet that standard. Because the ABS Marine Vessel Rules sufficiently address requirements for motor marking, we are deleting this section on motor markings as unnecessary.

§ 111.30 Switchboards

The requirements for switchboards contained in IEEE 45 2002 are replaced with requirements from the recently published IEEE 45.7 (2012), excluding section 6.3.3 related to steering gear circuit overcurrent protection. We did not intend the NPRM to propose a change the existing requirements for steering gear circuit overcurrent protection. For this reason, in § 111.30–5(a)(1) of this final rule, we are incorporating section 6 of IEEE 45.7–2012, excluding section 6.3.3 as discussed above in response to comments received on the NPRM.

In the NPRM, we had proposed a new paragraph (c) that warned readers that the interchangeability and compatibility of components complying with both IEEE and IEC cannot be assumed. That effort was to address the growing use of components meeting IEC standards on U.S. vessels. As noted in the discussion of the comments related to § 111.30–5, we have opted to remove paragraph (c) from the final rule because complying with and enforcing this relatively vague requirement would be difficult. Switchboards should be constructed in accordance with the standards incorporated by reference in subpart 111.30.

The flame retardant test standard IEC 332–1 has been superseded by IEC 60332–1–1:2015 and IEC 60332–1–2:2015. We are updating the standards for the flame retardant test in § 111.30–19(b)(4) regarding buses and wiring accordingly.

This rule replaces the term ''pilot light'' with the more commonly used term ''indicator light.''

Subpart 111.33 Power Semiconductor Rectifier Systems

We are replacing the requirements for semiconductor converters contained in IEEE 45 2002 with requirements from the recently published IEEE 45.2 (2012).

§ 111.50–3 Protection of Conductors

In § 111.50–3(b)(2), we revise the requirement for steering gear circuits from subchapter F to a more specific cite of § 58.25. We also remove the reference to IEC 92–202 from § 111.50–3(c). This standard does not address standard ratings for fuses or circuit breakers.

Subpart 111.51 Calculation of Short-Circuit Currents and Subpart 111.52 Coordination of Overcurrent Protective Devices

This rule combines subparts 111.51 and 111.52 into new subpart 111.51 to more clearly and concisely present the requirements for coordination of overcurrent protection devices and calculation of short-circuit currents. The general discussion contained in current § 111.51–1 is based on IEC 60092–202:2016.

The short-circuit calculations requirements of new § 111.51–2(a) are from the existing § 111.52–1. The new § 111.51–2(b) clarifies that the calculations must be performed to select suitably rated equipment and protective devices. The short-circuit calculations requirements of the new §§ 111.51–3 and 111.51–5 are from the existing §§ 111.52–3 and 111.52–5, respectively.

We are deleting NAVSEA DDS 300–2 from the existing § 111.52–5(b) because it is no longer available. Instead, we add IEC 61660–1:1997 as a standard for DC systems.

The requirements for the protection of vital equipment, § 111.51–6, are from the existing § 111.51–3.

[8] In addition to the changes specifically discussed in this preamble, we note that we have made additional non-substantive edits for clarity following the NPRM. For example, we removed the word ''both'' in § 111.87–3 because, following the addition of a new standard as discussed elsewhere in this rule, ''both'' was no longer an accurate description.

[9] NVIC 2–89, ''Guide for Electrical Installations on Merchant Vessels and Mobile Offshore Drilling Units,'' is available at *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/1989/n2-89.pdf.*

§ 111.54–1 Circuit Breakers

In § 111.54–1(c)(2), the maximum voltage for direct-current circuit breakers meeting IEC 60947–2:2013 will be identified as 1500 V. This is in accordance with that standard.

§ 111.75–17 Navigation Lights

In § 111.75–17(a), this rule removes the requirement that a feeder directly from the emergency switchboard supply the navigation light indicator panel. The emergency switchboard must still supply the panel, but this change allows for the common practice of supplying the navigation lights from an emergency lighting panel rather being directly fed from the switchboard. This is consistent with industry practice and vessel classification society rules. As part of this change we also delete § 112.43–13, which provided details on the navigation light panel feeder.

In § 111.75–17(d)(2), we will offer EN 14744 as an alternative for certification of navigation lights. UL 1104, which is currently the only certification specifically referenced in § 111.75–17(d)(2), is the other acceptable standard, but it has not been updated in over 20 years and addresses neither LED light sources nor EMC testing. EN 14744 addresses LED lights and EMC testing and has been published for 15 years. The other construction and testing requirements of EN 14744 are not identical to UL 1104, but it is accepted worldwide. We are unaware of any safety concerns related to it. For these reasons, we feel it is an acceptable option for certification of navigation lights. The Coast Guard currently accepts navigation lights constructed and tested to the requirements of EN 14744 on a case-by-case basis subject to the additional requirements of the MSC's Marine Technical Note 01–18, Guidance for Establishing Equivalency to UL 1104 Navigation Lights.[10] Following the publication of this final rule, we will accept EN 14744 without these additional requirements.

Additionally in § 111.75–17(d)(2), this rule clarifies the requirements for battery powered navigation lights. The existing text has been misinterpreted on occasion. Like all navigation lights, these lights must be certified by an independent laboratory to the applicable requirements of UL 1104, EN 14744, or an equivalent standard. This ensures they meet the applicable requirements of the 1972 COLREGS and the Inland Navigation Rules (33 CFR 83).

This rule deletes the requirement for a flashing light in the existing § 111.75–17(d)(4) because this requirement is contained in section 22.11 of UL 1104 and section 4.4 of EN 14744.

§ 111.75–18 Signaling Lights

This rule deletes the outdated, prescriptive requirements on signaling lights in this section that were based on the applicable international requirements in 1996 and incorporates by reference ISO 25861. This standard provides performance requirements for daylight signaling lamps pursuant to chapter V of SOLAS, 1974, as amended, and chapter 8 of the International Code for Safety for High-Speed Craft. Further, since 2002, navigation equipment required by chapter V of SOLAS, including signaling lamps (or lights), have been required to be type approved by the administration.

§ 111.75–20 Luminaires (Lighting Fixtures)

Throughout this section, we replace the term ''lighting fixture'' with the internationally used term ''luminaire,'' and we remove the prescriptive requirements contained in this section. Lighting fixtures meeting the standards incorporated by reference in this section, ANSI/UL 1598A or IEC 60092–306:2009, are suitable for use on vessels. Further, this rule specifies the clauses of ANSI/UL 1598A applicable to nonemergency and inside-type decorative luminaires.

§ 111.83–7 High Voltage Shore Connection

This section contains a standard for HVSCs, IEC/IEEE 80005–1:2019, applicable to ships that connect to shore power. The Coast Guard has actively participated with state and local stakeholders, shoreside and marine industry representatives, and equipment manufacturers to develop a standard to safely connect to HVSCs. This standard is offered as an option for compliance with state or local law, or when a vessel voluntarily connects to an HVSC.

§ 111.99–3 Definitions

We remove this section of definitions because the definitions are no longer necessary. Fire door holding and release systems are discussed in greater detail in SOLAS II–2/9. Many years ago there were detailed fire door system requirements in § 111.99. Now § 111.99–5 requires fire door holding and release systems, if fitted, to meet SOLAS II–2/9.4.1.1.5.3. Previously, § 111.99–5 required these systems to meet SOLAS II–2/30.4.3, but we have updated this reference to SOLAS II–2/9.4.1.1.5.3 based on the reorganization of SOLAS Chapter II–2.

Subpart 111.103 Remote Stopping Systems

The order of the subsections in 46 CFR subpart 111.103 has caused confusion and led readers to incorrectly infer that machinery space ventilation is a separate category from the ventilation referred to by 46 CFR 111.103–7. We are making editorial changes to this section to clarify its intent.

Subpart 111.105 Hazardous Locations

The Coast Guard completed two recent rulemaking projects related to hazardous locations, the ''Offshore Supply Vessels of at Least 6,000 GT ITC'' interim rule (79 FR 48893, Aug. 18, 2014) and the ''Electrical Equipment in Hazardous Locations'' final rule (80 FR 16980, Mar. 31, 2015). We are revising subpart 111.105 (Hazardous Locations) to be consistent with existing regulations. This final rule expands the list of acceptable national and international explosion protection standards, providing more options for operators. Additionally, in this final rule, we combine important provisions from §§ 111.105–3, 111.105–5, and 111.105–7 into one revised section, § 111.105–3, titled ''Approved Equipment.'' In the NPRM, we proposed to only combine §§ 111.105–3 and 111.105–5 into § 111.105–3, but this created confusion among commenters. We decided to also add § 111.105–7 into § 111.105–3 to consolidate all the approved equipment regulations. The reason for this change is discussed previously in response to comments related to § 111.105–3.

We add the internationally accepted independent third-party certification system, the International Electrotechnical Commission System for Certification to Standards relating to Equipment for use in Explosive Atmospheres (IECEx), as an accepted method of testing and certifying electrical equipment intended for use in hazardous locations. Existing § 111.108–1(b) allows owners and operators of existing U.S. MODUs, floating OCS facilities, vessels other than OSVs, and U.S. tank vessels that carry flammable or combustible cargoes, the option of using the same expanded list of standards and the IECEx System. In amending subpart 111.105, we incorporate these standards so that they are available to all vessels and facilities that must comply with subchapter J.

In § 111.105–11, we reduced the number of requirements listed here for intrinsically safe systems because the standards for these systems are now

[10] See *https://www.dco.uscg.mil/Portals/9/MSC/MTN/MTN.01-18.07.16.18.LEDand EUNavigationLights.pdf.*

contained in § 111.105–3. Additionally, we are replacing ISA RP 12.6–1995 in the existing § 111.105–11(d) with the standard that supersedes it, ANSI/ISA 12.06.01–2003. This standard is now located in § 111.105–11(b).

In § 111.105–7(a)(1)(i), we add ANSI/ISA 12.12.01 as a new standard for equipment in hazardous locations. See section VI.A for further explanation of this standard. In the NPRM, we also proposed incorporating UL 783 and ANSI/UL 2062 into this section. In the final rule, we have decided not to incorporate these standards by reference because they would have added electrical equipment requirements that were not already required for regulated vessels prior to this rulemaking. We would like to evaluate these standards and their effect on the industry more before considering them for incorporation by reference.

In § 111.105–17(b), we add IEC 61892–7:2019, IEC 60092–502:1999, API RP 14, and API RP 14FZ as additional acceptable standards for the use of conduit. See section VI.A for further explanation of each standard.

In the new § 111.105–28, we add ASTM F2876–10 to address internal combustion engines in hazardous locations. Under the new section, internal combustion engines installed in Class I Divisions 1 and 2 must meet the provisions of ASTM F2876–10. Like the expanded list of standards for electrical equipment in hazardous locations, this standard in subparts 111.106 and 111.108 is the result of previous rulemaking projects and will be added to § 111.105–28. This will ensure a consistent standard for these installations on all vessel and facility types.

In § 111.105–31(e), we are providing the option for submerged cargo pumps that do not meet § 111.105–31(d) to receive concept approval by the Commandant (CG–ENG) and plan approval by the Commanding Officer, MSC. This is consistent with existing §§ 111.106–3(f) and 111.108–3(f).

In § 111.105–31(f), we delete references to IEEE 45 1998 and IEC 60092–502:1999 because they do not provide any additional information on classification of cargo tanks beyond what is currently in subchapter J.

In § 111.105–31(o), we clarify the requirements for systems installed in duct keels.

In §§ 111.105–35 and 111.105–45, we update the IEC classification notation in accordance with IEC 60079–10–2:2015.

In § 111.105–41, we remove the reference to IEEE 45 1998 because the standard has been superseded.

Subpart 111.106 Hazardous Locations on OSVs

In § 111.106–3(b)(1)(i), we incorporate ANSI/ISA 12.12.01 as a new standard for equipment in hazardous locations. See section VI.A for further explanation of this standard. In the NPRM, we also proposed incorporating UL 783 and ANSI/UL 2062 by reference, but we have decided not to incorporate these standards because they would add electrical equipment requirements that were not already required for regulated vessels prior to this rulemaking. We would like to evaluate these standards and their effect on the industry more before considering them for incorporation by reference.

§ 111.107–1 Industrial Systems

In § 111.107–1(b), we clarified the standards for switchgear. Currently § 111.107–1(b)(1) refers to an unnecessarily broad range of standards. We simplify this section by cross-referencing the specific sections of the existing regulations in subpart 111.30 that apply to switchgears.

Subpart 111.108 Hazardous Locations Requirements on U.S. and Foreign MODUs, Floating OCS Facilities, Vessels Conducting OCS Activities, and U.S. Vessels That Carry Flammable and Combustible Cargo

We remove paragraph (b) from § 111.108–1, which was a cross-reference to the expanded list of standards and the IECEx System in subpart 111.105; the paragraph is directed to owners and operators of existing U.S. MODUs, floating OCS facilities, vessels other than OSVs, and U.S. tank vessels that carry flammable or combustible cargoes. This cross-reference to subpart 111.105 is no longer necessary because we include the same standards and systems in § 111.108–3 (General requirements).

In § 111.108–3(b)(1)(i), we add ANSI/ISA 12.12.01 as a new standard for equipment in hazardous locations. See section VI.A for further explanation of this standard. In the NPRM, we also proposed incorporating UL 783 and ANSI/UL 2062 by reference, but we have decided not to incorporate these standards because they would add electrical equipment requirements that were not already required for regulated vessels prior to this rulemaking. We would like to evaluate these standards and their effect on the industry more before considering them for incorporation by reference.

§ 112.01–20 Final Emergency Power Source

We clarify the description of the final emergency power source in this section. For the convenience of the reader, we also cross-reference § 112.15–5, which specifies the existing regulations for final emergency power sources.

§ 112.05–5 Emergency Power Source

In § 112.05–5(a), we clarify that the emergency power source must be sized using a unity (1.0) service factor on all loads as required by Table 112.05–5(a). This section currently states that the emergency power source must simultaneously supply these loads. When sizing the emergency power source to meet this requirement the loads in Table 112.05–5(a) must have a service factor of unity, 1.0 or 100 percent. This is also referred to as a load factor. This is not a change to the existing requirement but only a clarification of the requirement that the emergency power source must be appropriately sized to accomplish this task.

§ 112.15–1 Temporary Emergency Loads

In § 112.15–1(s), we add the engineer's assistance-needed alarm to the list of loads that must be powered by the temporary emergency power source. This is consistent with the requirement in § 113.27–1(c) that states it must be powered from the same source as the general alarm.

§ 112.43–13 Navigation Light Indicator Panel Supply

We delete the requirement that the emergency light indicator panel be supplied directly from the emergency switchboard in this section. We made this change because § 111.75–1(a) will no longer require that a feeder from the emergency generator directly supply the navigation light indicator panel supply and instead allow it to be supplied by an electrical panel, such as an emergency lighting panel, which is supplied by the emergency switchboard.

§ 112.50–1 General

In § 112.50–1(g), we delete the requirement that emergency generators automatically shut down upon loss of lubricating oil pressure. This section will continue to require that generators be set to shut down automatically upon overspeed or operation of a fixed fire extinguishing system in the emergency generator. Removing the requirement for emergency generators to automatically shut down in case of loss of lubricating oil pressure is consistent with classification society rules and allows

the crew to decide in an emergency situation if the emergency generator should be shut down. We also reformat § 112.50–1(g) to clarify the remaining regulations for emergency generator set shut downs.

In addition, we revise the format of paragraph (h) to clarify that the alarms are required for all of the listed conditions in each section, not just one of the two conditions listed in each section. This is a non-substantive formatting edit that does not affect the existing alarm regulations for emergency generators in § 112.50–1(h).

## VI. Incorporation by Reference

Material that this rule incorporates by reference appears in § 110.10–1, and is summarized and discussed in section V.A of this preamble. Copies of the material are available either at the publisher's web address included in the regulatory text of § 110.10–1 or by contacting the publisher listed in the standard listed in § 110.10–1. We also reviewed and updated all the publisher's web addresses listed in § 110.10–1 to ensure they are current. The following list of publishers offer some of the more recent standards we propose to incorporate at no cost to the public: ABS, FM Approvals, IMO, Lloyd's Register, NFPA, DDS/Military Handbook, and UL. Based on the volume of equivalency requests the Coast Guard receives asking us to confirm that the latest edition is equivalent to or better than the edition currently incorporated, we believe industry already has access to and uses these more recent standards. The affected industry typically obtains the more recent editions of standards in the course of their business, in order to address advancements in technology.

You may also contact the person in the **FOR FURTHER INFORMATION CONTACT** section for additional direction on how to obtain access to electronic copies of the materials. The Director of the Federal Register approved the material in § 110.10–1 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51.

## VII. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Details on the estimated cost savings of this rule can be found in the rule's RA that follows. This rule has not been designated by OMB a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

The Coast Guard received two public comments regarding the affected population in the RA for the proposed rule. We discuss our responses to these comments in section IV of the preamble of this final rule. We incorporated the commenters' suggestions into the RA for this final rule and revised the population of MODUs and Cargo and Miscellaneous Vessels based on MISLE data. We also updated the total population for the final rule (see table 4). In addition, we updated the mean hourly wage rate using 2021 data from the Bureau of Labor Statistics (BLS). As a result, we revised the estimated cost savings for this final rule. Table 2 summarizes the changes from the NPRM to the final rule and their expected impact on costs and cost savings. The changes we made to the respective CFR sections from the NPRM to the final rule, which we show in table 2, have no additional impact on the affected population or the cost savings we estimated in this analysis.

TABLE 2—CHANGES TO CFR FROM NPRM TO FINAL RULE

| NPRM's CFR cite | Final rule's CFR cite | Cost impact of change |
|---|---|---|
| 46 CFR 110.01–1(b) General | 46 CFR 110.01–1(b) General | No impact. We are updating the implementation date for the revised regulations. |
| 46 CFR 110.10–1(c) Incorporation by reference. | 46 CFR 110.10–1(b) Incorporation by reference. | No impact. Based on public comment received, we are adding ANSI/ISA–RP12.06.01 (2003) as this standard superseded ISA RP 12.6 (1995), which was deleted in the NPRM. |
| 46 CFR 110.25–1(i)(1) Plans and information required for new construction. | 46 CFR 110.25–1(i) Plans and information required for new construction. | No impact. We are updating the numbering of subparagraphs to account for changes made by this final rule. No quantifiable cost estimate for the method of classification, or Division or Zone. |
| 46 CFR 111.30–5 Construction | 46 CFR 111.30–5 Construction | No impact. We are removing the NPRM's proposed paragraph (c), which warned that the interchangeability of IEEE and IEC components could not be assumed. Public comments argued this was confusing and unnecessary. |
| 46 CFR 111.33–1 General | 46 CFR 111.33–1 General | No impact, editorial changes. We are changing the word ''converter'' to ''rectifier'' to conform with a change proposed for 46 CFR 111.33–3 in the NPRM. |
| 46 CFR 111.40–1 Panelboard standard. | 46 CFR 111.40–1 Panelboard standard. | No impact, editorial changes. We are changing the reference to section 9.10 of IEEE 45.1–2017 to subsection 9.10.1 of IEEE 45.1–2017. |
| 46 CFR 111.60–6 Fiber optic cable | 46 CFR 111.60–2 Specialty cable for communication and RF applications, and 46 CFR 111.60–6 Fiber optic cable. | No impact, editorial changes. We are restoring existing §§ 111.60–2 and 111.60–6, which were proposed for deletion in the NPRM, and updating standards referenced within these sections to conform with updates proposed in the NPRM. |
| 46 CFR 111.60–11(c) Wire | 46 CFR 111.60–11(c) Wire | No impact. We are removing the incorporation by reference of section 5.7 of IEEE 45.8–2016 proposed in the NPRM as this section does not address wire. |
| 46 CFR 111.105–3 General requirements and system integrity. | 46 CFR 111.105–3 Approved equipment. | No impact, editorial changes. We are combining §§ 111.105–3 and 111.105.7 and renumbering paragraphs to improve clarity and consistency with similar requirements elsewhere in subchapter J. |

TABLE 2—CHANGES TO CFR FROM NPRM TO FINAL RULE—Continued

| NPRM's CFR cite | Final rule's CFR cite | Cost impact of change |
|---|---|---|
| 46 CFR 111.105–7 Approved equipment. | 46 CFR 111.105–3 Approved equipment. | No impact. We are combining §§ 111.105–3 and 111.105–7 into § 111.105–3 and removing § 111.105–7. |
| 46 CFR 111.105–11 Intrinsically safe systems. | 46 CFR 111.105–11 Intrinsically safe systems. | No impact, editorial changes. We are adding ANSI/ISA RP12.06.01:2003 because it supersedes ISA RP 12.6 (1995), which was deleted in the NPRM. |
| 46 CFR 111.105–50 Alternative standard to the classification of hazardous locations requirements of this subchapter. | 46 CFR 111.105–50 Alternative standard to the classification of hazardous locations requirements of this subchapter. | No impact, editorial changes. Based on public comments, we are reorganizing and clarifying these requirements. |

With this final rule, the Coast Guard will update subchapter J of title 46 of the CFR to align the standards that govern electrical equipment and installations on U.S.-flagged vessels with current industry practices to ensure that the standards are consistent on all vessel types referenced in subchapter J. The provisions of this final rule will update existing standards through incorporation by reference, provide options to use alternative standards, eliminate obsolete standards, and clarify the existing requirements. The majority of the updates will simply incorporate by reference more recent versions of the same standards with little or no substantive change. The more recent editions reflect more modern technologies, terminology, and practices. By updating standards, we expect the final rule to generate cost savings, from a reduction in equivalency requests, to industry and the Federal Government of approximately $209,352 over a 5-year period of analysis in 2021 dollars, using a 7-percent discount rate (we are using a 5-year period of analysis because we anticipate this final rule will not produce cost savings beyond this time period). We estimate annualized cost savings to be approximately $51,059, using a 7-percent discount rate. The cost savings are a result of industry submitting fewer equivalency requests to the Coast Guard (and the Coast Guard, therefore, needing to review fewer equivalency requests), and not from the changes to the IBR standards we make with this final rule. We expect the final rule to generate unquantified benefits because incorporating these standards will simplify regulatory compliance, reduce confusion, and provide industry flexibility. Table 3 provides a summary of the impacts of the final rule.

TABLE 3—SUMMARY OF IMPACTS OF THE FINAL RULE

| Category | Summary |
|---|---|
| Applicability | Incorporate by reference electrical engineering standards or update existing standards through incorporation by reference in subchapter J of Title 46 CFR. |
| Affected Population | • Cost savings based on an 80 percent reduction of equivalency requests from owners and operators of 183 new U.S.-flagged vessels that entered service over the past 5 years.<br>• Standards used by approximately 5,602 U.S.-flagged vessels (affected population varies by CFR part and subpart, see table 4). |
| Benefits | Industry Cost Savings ($2021, 7-percent discount rate):<br>5-year period of analysis: $91,320.<br>Annualized: $22,272.<br>Government Cost Savings ($2021, 7-percent discount rate):<br>5-year period of analysis: $118,032.<br>Annualized: $28,787.<br>Total Cost Savings ($2021, 7-percent discount rate):<br>5-year period of analysis: $209,352.<br>Annualized: $51,059.<br>Unquantified benefits include providing flexibility by offering options or alternatives for IBR and non-IBR provisions, removing regulatory redundancy and confusion by updating standards and simplifying regulatory text through editorial changes, and consolidating regulatory text. |

## Affected Population

This final rule affects four parts in subchapter J of title 46 of the CFR (110, 111, 112, and 113), as well as multiple subparts within each part. Subchapter J applies to vessels covered by subchapters D, H, I, I–A, K, L, O, R, and U of title 46 of the CFR.[11]

We updated the affected population for the final rule because two years have elapsed since we collected the original data for the proposed rule. This final rule will affect approximately 5,602 existing inspected U.S.-flagged vessels. We obtained the affected population of this rule from our MISLE database. For standards we are incorporating by reference in this final rule, we expect all U.S.-flagged vessel owners and operators to use the most recent incorporated standards, some of which were updated as recently as 2020. For construction standards, we expect all U.S.-flagged vessel owners and operators to use the most recent incorporated standards that are in place at the time of construction or modification of a vessel.

For the purpose of the cost savings analysis, we use a subset of the total affected population because only owners and operators of new U.S.-flagged vessels entering service annually will generate cost savings by submitting fewer equivalency requests to the Coast

[11] Title 46 CFR subchapter J lists two other subchapters, Q and W. Subchapter Q does not contain vessels; it applies to vessels in the other subchapters regarding equipment, construction, and materials for specifications and approval. Similarly, subchapter W does not contain vessels but applies to vessels that have lifesaving appliances and arrangements in one of the subchapters previously listed.

Guard. Included in the total population of 5,602 vessels are 1,460 new U.S.-flagged vessels that entered service in the last 8 years, from 2014 to 2021. We divided 1,460 by 8 years to obtain an average of approximately 183 new U.S.-flagged vessels annually (see table 4 below). We based the cost savings analysis on the past number of equivalency requests owners and operators of new U.S.-flagged vessels submitted to the Coast Guard over an 18-month period from September 2018 to February 2020. The Coast Guard received 10 equivalency requests annually from owners and operators of new vessels during this period. Prior to this time period, the Coast Guard did not collect data on equivalency requests.

We expect this final rule will reduce the baseline number of equivalency requests the Coast Guard receives from industry by 80 percent.[12] We do not expect this final rule or any updates to standards to eliminate the public's questions altogether; although this rulemaking will update standards, we expect a certain number of standards to be out of date each year because standards organizations are continuously revising standards to reflect safety concerns or to maintain pace with technological advancements within the industry. Thus, we project that about 20 percent of the public still may have questions about the standards they are using annually during the 5-year period and expect the number of equivalency requests that we receive from the public to be about 20 percent of its current annual level. The Coast Guard makes a determination in the year we receive a question (equivalency request) from the public; therefore, the questions will not accumulate from one year to the next. For example, if we characterize the number of questions in the first year as 100 percent of the total amount, we expect this final rule to reduce the number of questions by 80 percent in this year, which produces the cost savings. The balance of 20 percent is the amount that remains, which comprises the number of questions in the first year. In the second year, the public generates additional questions based on the standards they are using, which do not add to the number of questions in the first year. Again, we treat the number of questions in the second year as 100 percent of the total amount, and we expect this final rule to reduce the number of requests by 80 percent in this year, as we explained above. This, again, leaves an amount of 20 percent, which comprises the number of questions in the second year. Essentially, the number of questions in a subsequent year replaces the number of questions the Coast Guard resolves in the preceding year. This process continues through to the fifth year of the analysis period when we expect standards organizations to have completed the process of updating all existing standards.

Specifically, we expect owners and operators of new U.S.-flagged vessels that enter service to submit two equivalency requests annually, or a reduction of eight equivalency requests annually. Owners and operators of new U.S.-flagged vessels submit equivalency requests to the Coast Guard to ask for approval to use a standard that is not in regulation but may be equivalently safe. We explain equivalency requests in greater detail in the Cost Savings Analysis portion of this RA.

TABLE 4—AFFECTED U.S.-FLAGGED VESSEL POPULATION THAT COMPLIES WITH 46 CFR SUBCHAPTER J

| Subchapter J vessels | Description | Population |
|---|---|---|
| D | Tank Vessels | 871 |
| H | Passenger Vessels (≥100 gross tons) | 41 |
| I | Cargo and Miscellaneous Vessels | *617 |
| I–A | Mobile Offshore Drilling Units (MODUs) | 1 |
| L | Offshore Supply Vessels (OSV) | 282 |
| O (tank barge) | Certain Bulk Dangerous Cargoes | 8 |
| R | Nautical Schools | 15 |
| U | Oceanographic Research Vessels | 6 |
| O–I (tank barge) | Combination Bulk Cargo | 145 |
| O–D (tank barge or freight barge) | Combination Bulk Cargo-including chemicals | 3,616 |
| Total | | 5,602 |
| Average number of new U.S.-flagged vessels entering service annually. | Includes all subchapters listed above (average of the population for the period 2014–2021). | 183 |

**Note:** There are 784 unmanned tank barges in the subchapter D population, 173 unmanned freight barges and 3 unmanned tank barges in the subchapter I population in addition to the subchapter O, O–I, and O–D populations. With these populations combined, there is a total of 4,729 unmanned and non-self-propelled vessels.

*This number includes 41 Floating Production Systems in the subchapter I category.

This rule continues the Coast Guard's response to the Presidential Regulatory Reform Initiative of Mar. 4, 1995, and directives including Executive Orders 12866 and 13563 that are intended to improve regulation and the regulatory process. The provisions of this final rule will remove obsolete regulations, revise current regulatory text, substitute performance-based options for regulatory compliance as opposed to conventional prescriptive solutions, and incorporate by reference more recent national and international industry standards into the CFR. The Coast Guard recognizes the significant technological advances in electrical engineering equipment, systems, and devices carried on vessels. As a result, this final rule will encourage the use of newer equipment and promote adherence to modern standards in the industry. Industry also will realize cost savings from not having to send equivalency requests to the Coast Guard. See table 4 for how parts of the CFR will be affected by this final rule along with the anticipated impacts.

Benefits of the Rule

Cost Savings Analysis

We divided all of the changes of this final rule into three categories, which

[12] Generally, standards are updated every 5 years. We therefore assume that 20 percent of the standards become outdated each year as time elapses, so 100 percent/5 years = 20 percent annually (outdated standards). So, the remaining 80 percent (100 percent − 20 percent) will generate the cost savings.

we present in table 5: (1) Editorial changes to the CFR, (2) updates to IBR standards with technical changes, and (3) IBR standards with incorporated options or alternative options. The changes we make to the standards incorporated by reference in this final rule will not result in costs or cost savings to industry.

First, we will editorial changes to subchapter J that include such items as the removal of outdated terminology and the consolidation of text in different paragraphs into one paragraph, which includes regulatory provisions in 46 CFR parts 110, 111, 112, 113; we expect these changes to be a no cost change.

Second, we update IBR standards that have technical changes, which includes regulatory provisions in numerous subparts of 46 CFR parts 110, 111, and 113. It is standard practice in vessel manufacturing to follow the most recent editions of standards developed by representative groups of experts using a consensus-based process, because most manufacturers also supply materials to vessels not required to comply with 46 CFR subchapter J. Manufacturers of certain types of electrical equipment carried on vessels are currently producing equipment to the more recent standards, most of which have been published for at least several years and all of which have been developed by standard-based development organizations. These more recent standards, which this final rule adopts, provide greater clarity and specificity than the outdated technical standards they are replacing; therefore, we expect these changes to be a no cost change.

Third, for IBR standards that are one of several available standards as referenced in subchapter J, we update standards with a more recent edition (these will be alternative options) and add standards as new options to the several other available standards for vessel owners and operators and manufacturers of certain types of electrical equipment. The combination of these options will provide industry the opportunity to remove overly prescriptive requirements, simplify regulatory compliance, and provide regulatory flexibility. Many of the options, some of which are alternative options and others of which are new, are IBR standards that affect multiple subparts of 46 CFR parts 110, 111, and 113. The remaining options are not IBR standards and affect multiple subparts of 46 CFR parts 111 and 112. The options we incorporate by reference apply to the same population of 5,602 vessels. We assume industry will use the more recent national and international standards referenced in this rule. We expect adding a revised or new standard, which represents a more recent standard industry that is currently using, as an additional option to the existing standards will be a no cost change because these standards are not requirements; industry can instead choose a given standard to use among different alternative options. See table 5.

Specifically, we adopt the following four changes to subchapter J, related to generator prime movers, electrical cable construction, hazardous locations, and emergency generators, in order to eliminate outdated or unnecessarily prescriptive electrical engineering regulations and add a limited number of alternative standards. Of the four items listed in the following text, the generator prime mover falls into the second category (IBR standards with technical changes), while electrical cable construction, emergency generator, and hazardous locations fall primarily into the third category (IBR standards with proposed and alternative options), which we listed previously.

Generator Prime Mover

This final rule eliminates the regulatory requirements in § 111.12–1(b) and (c) for each generator prime mover to have an independent overspeed device and a loss of lubricating oil pressure to the generator bearing shutdown. The ABS rules, already incorporated by reference in § 111.12–1(a) since 1965, require these same safeguards on all but small generator prime movers. We also incorporate by reference the ABS Steel Vessel Rules for generator prime movers without modification. Industry has been using these rules for many years and the removal of these requirements will not affect the performance of the generator prime mover. We expect this to be a no cost change.

Electrical Cable Construction

For electrical cable construction requirements in subpart 111.60, this final rule incorporates by reference the more recent editions of the 2017 IEC standards and 2017 editions of ANSI standards to ensure alignment with current technological trends and to eliminate several unnecessary prescriptive requirements. This final rule also aligns electrical cable standards in subpart 111.60 with standards accepted internationally by vessel classification societies and foreign administrations and removes unnecessary, prescriptive requirements developed by the Coast Guard, which in turn, will simplify compliance. We expect this to be a no cost change because electrical cables are readily available that meet the standards that we incorporate by reference with this final rule.

Hazardous Locations

This final rule amends subpart 111.105 by incorporating by reference the IEC standard 60092–502 as an alternative standard for classification of hazardous locations. This IEC standard, published in 1999, is referenced in international standards and codes as well as all major classification societies' rules. Because we are adding an alternative standard and not changing requirements with this item, we expect this to be a no cost or no cost savings change.

Emergency Generator

This final rule amends subpart 112.05 to allow vessel owners and operators to use an emergency generator in port. Some U.S.-flagged vessel owners and operators favor the availability of this option in port because it is more fuel-efficient and results in fewer exhaust emissions than using the ship's larger service generators. This option is consistent with international guidance and classification society rules. However, this option applies to a very small number of U.S.-flagged vessel owners and operators who request it, and the Coast Guard will approve the use of an emergency generator for vessel owners and operators in compliance with subchapter J only. We expect this option to have unquantified cost savings associated with it. We also anticipate unquantified benefits due to a decrease in exhaust emissions since an emergency generator uses less fuel than a ship's main generator.

This final rule creates consistency between Coast Guard regulations and national and international standards through incorporation by reference, provides options with alternative standards, eliminates obsolete standards, and clarifies the existing requirements through the changes we adopt in 46 CFR subchapter J. We categorize these changes in table 5, which summarizes the impacts of this final rule and the affected parts and subparts in subchapter J. Consistent with DHS practice, table 5 specifically lists all of the individual changes by part, subpart, and paragraph of 46 CFR subchapter J. Table 1 in section II of the preamble is a general summary of the changes in subchapter J.

TABLE 5—REGULATORY CHANGES IN THIS FINAL RULE BY CFR PART

| Category | Description | Affected Title 46 CFR subparts/sections | Applicability | Cost impact |
|---|---|---|---|---|
| Editorial Changes ..... | • IEC naming convention.<br>• Industry standard terminology. | §§ 110.15–1(a), 110.15–1(b), 110.25–1(i), 110.25–1(a)(6), 110.25–1(j), 110.25–1(n), 110.25–1(p), 110.25–1(q), 110.25–3(c), 110.25–3(c), 111.05–3(c), 111.05–9, 111.05–37, 111.10–1, 111.10–9, 111.12–11(g)(2), 111.12–13, 111.12–7(b), 111.15–25(b), 111.15–30, 111.20–15, 111.30–1, 111.30–5(a)(1), 111.30–5(a)(2), 111.30–19(a)(2), 111.30–25(b)(3), 111.30–25(d)(2), 111.30–25(f)(2), 111.30–27(b)(4), 111.30–27(f)(2), 111.30–29, 111.30–29(e)(3), 111.33–1, 111.33–3(a), 111.33–5, 111.33–7, 111.33–9, 111.33–11, 111.33–3(a)(2), 111.33–3(c), 111.33–5(b), 111.50–3(b)(2), 111.50–5(a)(2), subparts 111.51 and 111.52, §§ 111.51–1, 111.51–2, 111.51–3, 111.51–6, 111.60–1(a), 111.60–7, 111.70–1(a), 111.70–3(a), 111.75–17(d)(2), 111.81–1(d), 111.95–1(b), 111.99–3, 111.103, 111.105–1, 111.105–3, 111.105–3(b), 111.105–3(b)(1), 111.105–3(b)(1)(i), 111.105–3(b)(1)(ii), 111.105–3(b)(1)(iii), 111.105–3(b)(2), 111.105–3(d), 111.105–5, 111.105–15, 111.105–17(d), 111.105–32(c), 111.105–35(a), 111.105–35(c), 111.105–45(a), 111.105–45(b), 111.105–45(b)(1), 111.106–15(a), 111.107–1(a)(1), 112.01–20, 112.05–5, 112.15–1, 112.50–1. | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. These editorial changes include clarification of text, removal of outdated or redundant terminology, and consolidation of text in different paragraphs into one paragraph. |
| | Editorial changes to the more recent editions of IBR standards. | §§ 110.15–1(b), 111.01–15(c), 111.12–3, 111.12–5, 111.25–5, 111.30–1, 111.30–5(a)(1), 111.33–3(a)(1), 111.33–5(a), 111.33–11, 111.35–1, 111.40–1, 111.50–3(c), 111.50–7(a), 111.50–9, 111.60–13(b)(1), 111.60–19(b), 111.60–21, 111.60–23(d), 111.75–5(b), 111.99–5, 111.105–3(e), 111.105–31(n), 111.105–40(a), (c), 111.105–41, 111.106–3(b)(1), 111.106–3(b)(1)(i), 111.106–3(b)(1)(ii), 111.106–3(b)(2), 111.106–3(d), 111.106–5(c), 111.106–7(a), 111.106–13(b), 111.107–1(c)(1), 111.108–3(b)(1)(i), 111.108–3(b)(1)(ii), 111.108–3(b)(2), 113.10–7, 113.20–1, 113.25–11(a), 113.30–25(e), 113.30–25(i), 113.37–10(b), 113.40–10(b), 113.30–25(j)(2), 113.65–5. Note to § 111.108–3(b)(1), Note to § 111.108–3(b)(2), Note to § 111.106–3(b)(1). | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. These provisions will make minimal textual changes to reflect latest trends in technology. These changes will simplify regulatory compliance by referencing the more recent national and international standards that industry is currently using. |
| | Editorial changes with deletions. | §§ 111.60–1(b), 111.60–1(c) 111.60–1(d), 111.60–1(e) 111.60–2, 111.60–3, 111.60–6, 111.60–11(c), 111.60–13(a), 111.60–13(c), 111.60–23(d), 111.75–17(d)(4), 111.75–18, 111.75–20(c) and (d) 111.105–9, 111.105–11(a) and (b), 111.105–17(c), 111.105–19, 111.105–31(e), 111.106–3(b)(1)(i), 111.108–1, and 112.50–1(g). | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. These provisions will remove obsolete standards and outdated terminology. |
| Technical Changes .... | IBR standards with technological changes in electrical equipment and testing. | §§ 110.15–1(b), 111.05–33(a) and (b), 111.12–1(a), 111.12–1(b), 111.12–7(a) and (b), 111.12–7(c), 111.15–2(b), 111.51–5, 111.54–1(c)(1)(ii), 111.54–1(c)(1)(i), 111.54–1(c)(1)(iii), 111.54–1(c)(3)(ii), 111.55–1(a), 111.59–1, 111.60–5(a)(1), 111.60–5(a)(2) and (b), 111.60–7, 111.60–11(c), 111.60–13(b)(2), 111.60–23(f), 111.70–1(a), 111.75–18, 111.105–3, 111.105–11(d), 111.105–37, 111.105–39, 111.105–39(a), 111.106–3(b)(1), 111.106–3(b)(1)(ii), 111.106–3(b)(1)(iii), 111.106–3(b)(3)(vi), 111.106–3(b)(3)(vi), 111.106–3(b)(3)(vi), 111.106–3(b)(3)(vi), 111.106–3(c), 111.106–3(d), 111.107–1(b), 111.107–1(c)(1), 111.108–3(b)(1), 111.108–3(b)(1)(i), 111.108–3(b)(1)(ii), 111.108–3(b)(3), 111.108–3(e), and 113.05–7(a)(2). | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. These provisions will ensure the implementation of the more recent industry and international standards that industry is currently using. Incorporation by reference is an administrative provision that simplifies regulatory compliance. |

TABLE 5—REGULATORY CHANGES IN THIS FINAL RULE BY CFR PART—Continued

| Category | Description | Affected Title 46 CFR subparts/sections | Applicability | Cost impact |
|---|---|---|---|---|
| Options | Newly incorporated options. | §§ 110.15–1(b), 111.01–9(a) and (c), 111.01–9(b), 111.01–9(d), 111.15–10(b)(2)(i), 111.20–15, 111.30–5(a)(2), 111.30–19(a)(1), 111.30–19(b)(4), 111.50–3(c) and (e), 111.50–3(e) and (g)(2), 111.53–1(a)(1) and 111.54–1(a)(1), 111.54–1(b), 111.54–1(c)(2), 111.54–1(c)(3)(i), 111.60–1, 111.60–9(c), 111.60–13(a), 111.60–13(c), 111.75–20(a), 111.81–1(d), 111.87–3(a), 111.106–5(a), 113.05–7(a), 113.10–7, 113.20–1, 113.25–11(a), 113.30–25(e), 113.30–25(i), 113.37–10(b), and 113.40–10(b). | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. These options provide flexibility to U.S.-flagged vessel owners and operators and simplifies regulatory compliance. Because these options represent the more recent standards, which are the current industry standards, there is no cost impact. Incorporating the more recent editions of national and international standards simplifies regulatory compliance and ensures the inclusion of technological changes. |
| | Additional options | §§ 111.59–1, 111.60–1, 111.75–17(b), 111.75–20(b), 111.83–7, 111.87–3(a), 111.105–3(b)(3), 111.105–11(c), 111.105–17(b), 111.105–28, 111.105–29(e), 111.105–50, 111.105–50(a), 111.105–50(b), 111.106–3(b)(1)(i), 111.108–3(b)(1)(i), 111.108–3(b)(3), and 112.05–7. | This applies to all vessels regulated under subchapters D, H, I, I–A, K, L, O, R, and U. | No cost or cost savings. The options provide flexibility to U.S.-flagged vessel owners and operators and simplifies regulatory compliance. Because these new options represent the more recent standards, there is no cost impact. Incorporating the more recent editions of national and international standards simplifies regulatory compliance and ensures the inclusion of technological changes. |

**Note:** We may list the same citation of the CFR multiple times because we are proposing numerous changes to the same paragraph. These changes may include clarifications, deletions, or insertions of text. The term ''current industry standards'' means equipment manufacturers have been constructing equipment to the more recent editions of standards.

The Coast Guard evaluated the affected population and estimates that this final rule will generate cost savings for owners and operators of new U.S.-flagged vessels who will no longer submit equivalency requests to the MSC for review. This final rule will also generate cost savings for the Federal Government, which will review fewer equivalency requests. An equivalency request is when an owner or operator of a new U.S.-flagged vessel sends questions to the Coast Guard to ask for a review of the standards they are currently using. Any member of the marine industry may submit a request, but it is primarily submitted by vessel owners and operators. Generally, an owner or operator makes such a request to seek a determination from the Coast Guard on whether or not a standard not contained in Coast Guard regulations is sufficient for use. For example, an equivalent standard could be a more recent edition of a standard in subchapter J, or it could be an alternative standard not currently listed in 46 CFR subchapter J. A Coast Guard Marine Engineer compares the equivalent standard with the standard incorporated by reference in subchapter J to ensure it offers an equal or greater level of safety.

When evaluating the proposed alternative standard, we compare the standard that industry is using to the standard in subchapter J that addresses the type of engineering equipment under review. Typically, owners and operators of existing U.S.-flagged vessels (at the time of construction of a vessel and when a vessel enters service) use the more recent standards in subchapter J, and, therefore they will not likely request an equivalency review from the Coast Guard following this rule. However, the Coast Guard expects owners and operators of new U.S.-flagged vessels that enter service each year to nevertheless have some equivalency questions because they may not be familiar with all of the applicable regulations in subchapter J, which include the most recent standards that are incorporated by reference.

Based on MSC data, the Coast Guard received 15 equivalency requests over the period from September 2018 to February 2020; this is the only period of time for which the Coast Guard maintained equivalency data. This is equivalent to 10 requests annually (15 requests ÷ 18 months × 12 months = 10 requests). We did not receive any public comments concerning this estimate; therefore, we retain the estimate of about 10 requests annually for the final rule. MSC data, validated by CG–ENG, show that a vessel owner or operator typically submits no more than one equivalency request in a given year, no matter how many vessels they may own or operate. Generally, organizations such as UL and the IEC create electrical standards for industry that take into account updates in the latest technology and construction techniques for electrical equipment. These organizations usually review and update standards every 5 years. Therefore, based on a 5-year interval, we generally expect 20 percent of the standards to be out of date in a given year, which, in turn, creates equivalency requests from industry. Because the Coast Guard makes a determination on an equivalency request in the same year it receives the request, we do not expect the number of equivalency questions to accumulate from year to year such that the 20-percent estimate will change in any year of a 5-year period. Even if we publish a rule to address updates to electrical standards in subchapter J, we still expect each year that the public will have questions about the standards it is using, which generates equivalency requests on an annual basis; we do not expect a published rule to eliminate the public's questions altogether.

Industry Baseline Costs

Without this final rule or under the current baseline, the Coast Guard receives approximately 10 equivalency requests annually, as we discussed previously. To draft an equivalency request to the MSC, an owner or operator of a U.S.-flagged vessel seeks the services of an engineering design firm or a shipyard's technical staff for a Marine Engineer or Naval Architect. Using the BLS ''Occupational and Employment Statistics'' database and May 2021 wage estimates, the unloaded mean hourly wage rate for Marine Engineers and Naval Architects is $47.03 (occupational code 17–2121).[13] To account for an employee's non-wage benefits, we apply a load factor to the unloaded mean hourly wage rate, which we calculated by using BLS's ''Employer Cost for Employee Compensation''

[13] Visit *https://www.bls.gov/oes/2021/may/oes172121.htm* to find 2021 unloaded mean hourly wage rate for occupations in the United States.

database. We determined the load factor to be approximately 1.48, rounded.[14] We multiply $47.03 by 1.48 to obtain a loaded mean hourly wage rate of approximately $69.60 for this occupation.

Based on information from the MSC and validated by subject matter experts in CG–ENG, it takes a Marine Engineer or Naval Architect approximately 40 hours of time to develop an equivalency request and submit it to the Coast Guard for review, which includes the electronic submission.

We estimate the total undiscounted cost for industry to submit 10 equivalency requests annually to be approximately $27,840, or $2,784 for each request (10 equivalency requests × $69.60 × 40 hours per request). See table 6 for industry inputs.

TABLE 6—INDUSTRY INPUTS

[Baseline]

| Item | Unit values |
|---|---|
| Annual Equivalency Requests | 10 |
| Hours to Draft One Request | 40 |
| Loaded Hourly Wage Rate (Marine Engineer or Naval Architect) | $69.60 |

Federal Government Baseline Costs

When the Coast Guard receives an equivalency request from a vessel owner or operator (or an electrical equipment manufacturer), the Coast Guard personnel at the MSC must review the request to provide a determination on whether or not the proposed standard is equivalent to a standard found in subchapter J. Based on information from the MSC and validated by subject matter experts in CG–ENG, a civilian Coast Guard Marine Engineer needs about 32 hours to review an equivalency request. Based on 10 requests received annually, the Coast Guard expends approximately 320 hours annually to review these requests. A Coast Guard Marine Engineer typically has a Federal Government General Schedule (GS) grade level of GS–14. The Office of Personnel Management lists the hourly pay for Federal employees who work in the Washington, DC area on its website, and records the hourly pay of a person with the grade level of a GS–14, step 5 (the midpoint of the pay grade) as $66.54.[15] We then calculate the share of total compensation of Federal employees to account for a Government employee's non-wage benefits. The Congressional Budget Office reports total compensation to Federal employees to be $64.80 per hour and wages to be $38.30.[16] We determine the load factor to be approximately 1.69 ($64.80 ÷ $38.30). We multiply $66.54 by 1.69 to obtain a loaded hourly wage rate of approximately $112.45 for a GS–14 Senior Engineer (Marine Engineer or Naval Architect). We estimate the total, undiscounted cost for the Federal Government to review 10 equivalency requests annually to be approximately $35,984 (10 equivalency requests × 32 hours for each request × $112.45), or $3,598 for each request. See table 7 for the Federal Government inputs.

TABLE 7—FEDERAL GOVERNMENT INPUTS

[Baseline]

| Item | Unit values |
|---|---|
| Annual Equivalency Requests Reviewed | 10 |
| Hours to Review One Request | 32 |
| Loaded Hourly Wage Rate (Marine Engineer or Naval Architect) | $112.45 |

We estimate the total, undiscounted baseline cost to industry and the Federal Government to submit and review equivalency requests, respectively, to be approximately $63,824 ($27,840 + $35,984), annually. Table 8 presents a summary of the baseline costs associated with industry submitting equivalency requests to the Coast Guard.

TABLE 8—ANNUAL BASELINE COSTS OF EQUIVALENCY REQUESTS

[$2021, Undiscounted]

| Item | Cost |
|---|---|
| Industry | $27,840 |
| Federal Government | 35,984 |
| Total | 63,824 |

**Note:** Totals may not sum due to independent rounding.

Industry Cost Savings

The baseline costs we estimate for industry is from vessel owners and operators of new U.S.-flagged vessels that enter service each year who submit equivalency requests. We expect this rule will reduce the number of equivalency requests industry submits annually. We estimate 195 companies own the average number of 183 new U.S.-flagged vessels that have entered service each year in the past 8 years. The number of equivalency requests the Coast Guard has received annually from these owners and operators is approximately 10 (a vessel owner or operator will request an equivalency determination without regard to the number of vessels owned). We anticipate standards organizations to update their standards every 5 years. Therefore, we expect 20 percent of the standards to be out of date in a given year over this period of time (100 percent divided by 5 years equals 20 percent). We multiplied the 20 percent value by the baseline number of 10 equivalency requests the Coast Guard receives annually from owners and operators of new U.S.-flagged vessels. Therefore, we expect industry to submit 2 equivalency requests (10 equivalency requests × 0.20) in any given year of the analysis period, or a reduction in the number of requests of 80 percent. Similarly, the marine industry will save approximately 320 hours annually from not drafting and submitting equivalency requests (320 hours = 8 requests × 40 hours for each request). The submission of an equivalency request will not affect or change an existing information collection request, nor will it create a new one, because we estimate the number of requests to be approximately 2 annually, which is below the threshold of 10 limit set by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Federal Government does not require the marine industry to submit these requests; vessel owners and operators (or manufacturers) voluntarily submit requests only if they have questions about the standards they are using.

[14] A loaded hourly wage rate is what a company pays per hour to employ a person, not the hourly wage an employee receives. The loaded hourly wage rate includes the cost of non-wage benefits (health insurance, vacation, etc.). To obtain the load factor, we used the multi-screen data search feature from this database and searched for ''private industry workers'' under ''total compensation'' and then for ''all workers'' in the category ''Transportation and Materials Moving Occupations,'' within the United States. We performed the same steps to obtain the value for ''wages and salaries.'' The series IDs for total compensation, and wages and salaries are CMU2010000520000D and CMU2020000520000D, respectively, which are not seasonally adjusted values. Using second quarter data for 2021, we divided the value for total compensation, $31.90, by wages and salaries, or $21.54, to obtain a load factor of about 1.48, rounded. *https://data.bls.gov/cgi-bin/dsrv?cm.*

[15] *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/DCB_h.aspx.*

[16] Congressional Budget Office (2017), ''Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015,'' *https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf.*

Using the same labor category previously used to calculate the baseline for industry costs, we estimate the total undiscounted cost savings of this rule to industry to be approximately $22,272 annually [(10 equivalency requests × 40 hours for each equivalency × $69.60 = $27,840) minus (2 equivalency requests × 40 hours for each equivalency request × $69.60 = $5,568)]. We estimate 5-year cost savings of this rule to industry to be approximately $91,320, using a 7-percent discount rate. We estimate the annualized cost savings to be approximately $22,272, using a 7-percent discount rate, as shown in table 9.

TABLE 9—ESTIMATED INDUSTRY COST SAVINGS FROM THIS RULE

[$2021, 5-year period of analysis, 7- and 3-percent discount rates]

| Year | Number of reduced equivalencies | Hours to draft equivalencies | Total cost savings | Discounted cost savings, 7% | Discounted cost savings, 3% |
|---|---|---|---|---|---|
| 1 | 8 | 40 | $22,272 | $20,814.95 | $21,623.30 |
| 2 | 8 | 40 | 22,272 | 19,453.23 | 20,993.50 |
| 3 | 8 | 40 | 22,272 | 18,180.59 | 20,382.04 |
| 4 | 8 | 40 | 22,272 | 16,991.20 | 19,788.38 |
| 5 | 8 | 40 | 22,272 | 15,879.63 | 19,212.02 |
| Total | | | | 91,319.60 | 101,999.24 |
| Annualized Cost Savings | | | | 22,272 | 22,272 |

**Note:** Totals may not sum due to independent rounding.

Federal Government Cost Savings

With this final rule, we expect the Coast Guard will review annually 2 equivalency requests (10 equivalency requests × 0.20). This again will be a reduction of 80 percent from the baseline number of 10 requests. With fewer equivalencies to review, the Coast Guard will also save approximately 256 hours annually from not reviewing equivalency requests (8 requests × 32 hours per request).

Using the same labor category previously for MSC personnel to review an equivalency request, we estimate the total, undiscounted cost savings of this final rule to the Federal Government to be approximately $28,787 annually [(10 baseline equivalency requests × 32 hours for each equivalency request × $112.45 = $35,984) minus (2 equivalency requests × 32 hours for each equivalency request × $112.45 = $7,197)]. We estimate the 5-year discounted cost savings of this rule to the Federal Government to be approximately $118,032, using a 7-percent discount rate. We estimate the annualized cost savings to be approximately $28,787, using a 7-percent discount rate, as shown in table 10.

TABLE 10—ESTIMATED FEDERAL GOVERNMENT COST SAVINGS FROM THIS RULE

[$2021, 5-year period of analysis, 7- and 3-percent discount rates]

| Year | Number of reduced equivalencies | Hours to review equivalencies | Total cost savings | Discounted cost savings, 7% | Discounted cost savings, 3% |
|---|---|---|---|---|---|
| 1 | 8 | 32 | $28,787 | $26,903.74 | $27,948.54 |
| 2 | 8 | 32 | 28,787 | 25,143.68 | 27,134.51 |
| 3 | 8 | 32 | 28,787 | 23,498.77 | 26,344.18 |
| 4 | 8 | 32 | 28,787 | 21,961.46 | 25,576.88 |
| 5 | 8 | 32 | 28,787 | 20,524.73 | 24,831.92 |
| Total | 80 | | | 118,032.38 | 131,836.03 |
| Annualized Cost Savings | | | | 28,787 | 28,787 |

**Note:** Totals may not sum due to independent rounding.

Total Cost Savings of This Rule

We estimate the 5-year, total discounted cost savings of this final rule to be approximately $209,352 ($91,320 + $118,032), using a 7-percent discount rate. We estimate the annualized cost savings of this rule to be approximately $51,059, using a 7-percent discount rate. The total annualized cost savings is the summation of the values in tables 9 and 10 ($22,272 + $28,787 = $51,059) as a result of the reduction in the number of equivalency requests we expect annually from industry, as shown in table 11.

TABLE 11—TOTAL ESTIMATED COST SAVINGS FROM THIS RULE

[$2021, 5-year period of analysis, 7- and 3-percent discount rates]

| Item | Industry cost savings | Federal government cost savings | Total |
|---|---|---|---|
| Discounted Cost Savings, 7% | $91,320 | $118,032 | $209,352 |

TABLE 11—TOTAL ESTIMATED COST SAVINGS FROM THIS RULE—Continued

[$2021, 5-year period of analysis, 7- and 3-percent discount rates]

| Item | Industry cost savings | Federal government cost savings | Total |
|---|---|---|---|
| Discounted Cost Savings, 3% | 101,999 | 131,836 | 233,835 |
| Annualized Cost Savings, 7% | 22,272 | 28,787 | 51,059 |

Unquantified Cost Savings of the Final Rule

We expect this final rule will have unquantified cost savings associated with the option of using an emergency generator while in port. The use of an emergency generator in port will likely save fuel because it does not require a vessel owner or operator to use a ship's larger service generators. However, we are not able to quantify the cost savings associated with this option because the Coast Guard does not have the data to predict how many vessel owners and operators will choose this option while in port. Nevertheless, we expect at least a small number of vessel owners and operators to choose this option.

Additionally, we expect this final rule to generate qualitative benefits. This final rule is necessary because it will update obsolete standards, remove redundancy in regulatory text, clarify and rearrange regulatory text, and provide options to owners and operators of vessels and manufacturers of certain types of electrical equipment. By updating standards and providing options, Coast Guard regulations will be less ambiguous and conform to the more recent industry standards, thereby ensuring consistency within the marine industry. Some of these options we consider to be alternative options, and others will be new options. With these changes, industry will follow less ambiguous regulatory provisions, which we expect will create fewer equivalency requests. In addition, we removed Coast Guard prescriptive requirements in some places and replaced them with more recent national or international standards, which should simplify compliance.

Regarding the use of an emergency generator while in port, this option will likely reduce emissions and save fuel for vessel owners and operators who choose to use an emergency generator while in port. Some U.S.-flagged vessel owners and operators favor the availability of this option in port because it is more fuel-efficient and results in fewer exhaust emissions than using the larger ship's service generators. This will be an option for a very small number of U.S.-flagged vessel owners and operators who request it. This option is consistent with international guidance and classification society rules. The Coast Guard will approve the use of an emergency generator for vessel owners and operators in compliance with subchapter J only.

We are not able to quantify the expected reduction in the exhaust emissions because the Coast Guard is not able to predict how many vessel owners and operators will choose this option while in port due to the lack of data. The Coast Guard did not receive any public comments on the proposed rule concerning cost or cost savings associated with the use of an emergency generator and exhaust emissions while a vessel is in port.

Analysis of Alternatives

*(1) Industry would continue to meet the current standards in 46 CFR subchapter J with no updates to standards or incorporations by reference (current baseline without regulatory action).*

This alternative is a representation of the current state of the industry where vessel owners and operators would continue to follow standards in 46 CFR subchapter J without any updates to standards. To use a newer standard or alternative standard, industry must submit an equivalency request, and the Coast Guard must grant that equivalency. With this alternative, industry would not benefit from regulations incorporating newer or alternative standards and would not benefit from the latest advances in electrical equipment technology without incurring the cost of submitting equivalency requests. With this alternative, there would be no change in the costs.

With this alternative, we would not update the standards in 46 CFR subchapter J, and industry would not follow the more recent standards, which includes technological advancements in electrical equipment carried on vessels. We rejected this alternative because it would not create cost savings for the marine industry and industry also would not benefit from this alternative because it would not provide needed regulatory clarity.

*(2) Issuance of a policy letter that would permit the marine industry to meet the more recent editions of the IBR standards without updating the editions that are incorporated by reference in 46 CFR subchapter J.*

For this alternative, we would issue a policy letter that would permit industry members to meet the most recent editions of the pertinent standards. With such a policy in place, we anticipate that the marine industry would use the more recent editions of the IBR standards. However, 46 CFR subchapter J would still contain outdated standards and overly prescriptive regulations that we could only remove through notice and comment rulemaking. Issuing a policy letter would not provide the agency an opportunity for soliciting public comment on current industry practice and standards. Additionally, the policy letter would not be enforceable against the public, and the Coast Guard could revise the policy letter without opportunity to comment.

We would expect the number of equivalency requests to decrease with this alternative by the same amount as the preferred alternative, and we also expect the cost savings associated with this alternative to be the same as the preferred alternative. We estimate this alternative would save industry approximately $22,272 annually (undiscounted). We estimate the 5-year discounted cost savings of this alternative to industry would be approximately $91,320, using a 7-percent discount rate. We estimate the annualized cost savings would be approximately $22,272, using a 7-percent discount rate. We rejected this alternative because we would not be incorporating by reference the more recent standards in the CFR, industry would not benefit from enhanced regulatory clarity in subchapter J, and the public would not be given the opportunity to comment on the appropriateness of the more recent editions of the IBR standards.

*(3) Preferred Alternative—Update the IBR standards in 46 CFR subchapter J, create regulatory options, and make*

*editorial changes to reduce the ambiguity that currently exists.*

With this alternative, we will update the current standards in 46 CFR subchapter J and incorporate the more recent industry standards. This is the preferred alternative because it will create consistency between Coast Guard regulations and national and international standards, update the standards incorporated by reference to reflect the more recent standards available, provide options for alternative standards, eliminate obsolete standards, and clarify the existing requirements.

This alternative will reduce the number of equivalency requests from the marine industry and create cost savings for vessel owners and operator and manufacturers of marine equipment. It will also reduce the hours the marine industry will spend on drafting and submitting equivalency requests to the Coast Guard. We analyzed and presented the cost saving impacts of this alternative to industry and the Coast Guard earlier in this RA.

*B. Small Entities*

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) (RFA), we have considered whether this final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule creates cost savings for industry because we estimate fewer equivalency requests will be submitted to the Coast Guard. We expect equivalency requests to be submitted by owners or operators of new U.S.-flagged vessels who may have questions about standards that are not in 46 CFR subchapter J. Over an 8-year period from 2014–2021, we found 1,460 new U.S.-flagged vessels entered service, or an average of approximately 183 annually during this period. We found that 195 companies owned the 1,460 vessels.

Using the publicly-available online database ''ReferenceUSAgov'' (in addition to individual online searches of companies) to search for company-specific information such as annual revenues and number of employees, we found revenue or employee information on 119 of the 195 companies, or approximately 61 percent.[17] Using the Small Business Administration's ''Table of Size Standards'' and the North American Industry Classification System codes listed in the table, we found 88 of the 119 companies to be small entities.[18] We found the other 31 companies to be not small.[19] We did not find information on the remaining 76 companies; therefore, we assumed these companies to be small entities for a total of 164 small entities out of 195 companies, or approximately 84 percent.

We analyzed the potential economic impacts of this final rule on small entities and found that each small entity that no longer submits an equivalency request will save approximately $2,784 annually. We estimate an 80 percent reduction in the number of equivalency requests (from 10 to 2 annually) industry submits to the Coast Guard with this rule; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Any small entity that does not submit an equivalency request will not be impacted by any costs or cost savings.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

*D. Collection of Information*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the U.S. Coast Guard to consider the impact of paperwork and other information collection burdens imposed on the public. The Coast Guard has determined that there will be no new requirement for the collection of information associated with this final rule.

*E. Federalism*

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

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See United States* v. *Locke,* 529 U.S. 89, 115–116 (2000) (holding that Congress intended that the Coast Guard regulations be the sole source of vessel design, operation, and reporting requirements). This proposed update to electrical engineering standards for vessels is issued under the authority in 46 U.S.C. 3306(a)(1), which authorizes the Secretary to prescribe regulations for the design, construction, alteration, repair, and operation of vessels subject to inspection, including equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, and electric installations. Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

*F. Unfunded Mandates*

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

[17] *http://www.referenceusagov.com.*

[18] The Coast Guard was unable to find revenue information for two of these small entities.

[19] *https://www.sba.gov/document/support--table-size-standards.*

*G. Taking of Private Property*

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

*H. Civil Justice Reform*

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

*I. Protection of Children*

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

*J. Indian Tribal Governments*

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

*K. Energy Effects*

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

*L. Technical Standards and Incorporation by Reference*

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

This rule uses the following voluntary consensus standards:

- ANSI/ISA–RP12.06.01–2003—Recommended Practice for Wiring Methods for Hazardous (Classified) Locations Instrumentation Part 1: Intrinsic Safety, approved 16 April 2003 (''ANSI RP12.06.01''),
- ANSI/ISA 12.12.01–2015—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations, approved Aug. 21, 2015 (''ANSI/ISA 12.12.01'').
- API RP 14F—Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class 1, Division 1 and Division 2 Locations, Sixth Edition, October 2018 (''API RP 14F'').
- API RP 14FZ—Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1, and Zone 2 Locations, Second Edition, May 2013 (''API RP 14FZ'').
- API RP 500—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Third Edition, December 2012 with errata January 2014 (''API RP 500'').
- API RP 505—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, Second Edition, August 2018 (''API RP 505'').
- ASME A17.1—2016/CSA B44–16 Safety Code for Elevators and Escalators: Includes Requirements for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, reissued January 16, 2017 with errata (''ASME A17.1'').
- ASTM B117—19, Standard Practice for Operating Salt Spray (Fog) Apparatus, approved Nov. 1, 2019 (''ASTM B117'').
- ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, reapproved May 1, 2015 (''ASTM F2876–10'').
- CSA C22.2 No. 30–M1986—Explosion-proof enclosures for use in class I hazardous locations, Reaffirmed 2016 (''CSA C22.2 No. 30–M1986'').
- CSA C22.2 No. 213–16—Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations, May 2016 (''CSA C22.2 No. 213–16'').
- CSA–C22.2 No. 0–10—General requirements—Canadian Electrical Code, Part II, including Update No. 2, dated November 2014, Reaffirmed 2015 (''CSA C22.2 No. 0–10'').
- CAN/CSA–C22.2 No. 157–92 (Reaffirmed 2016)—Intrinsically safe and non-incendive equipment for use in hazardous locations, including Update No. 2, dated June 2003, Reaffirmed 2016 (''CSA C22.2 No. 157–92'').
- EN 14744—Inland navigation vessels and sea-going vessels—Navigation light, English version, Aug. 2005 (''EN 14744'').
- FM Approvals Class Number 3600—Approval Standard for Electrical Equipment for Use in Hazardous (Classified) Locations—General Requirements, Jan. 2018 (''FM Approvals Class Number 3600'').
- FM Approvals Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3610'').
- FM Approvals Class Number 3611—Approval Standard for Nonincendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3611'').
- FM Approvals Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, January 2018 (''FM Approvals Class Number 3615'').
- FM Approvals Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3620'').
- IEEE Std. C37.04–2018—IEEE Standard for Ratings and Requirements for AC High-Voltage Circuit Breakers with Rated Maximum Voltage Above 1000 V, approved December 5, 2018 (''IEEE C37.04'').
- IEEE Std. C37.010–2016—IEEE Application Guide for AC High-Voltage Circuit Breakers >1000 Vac Rated on a Symmetrical Current Basis, approved September 22, 2016 (''IEEE C37.010'').
- IEEE Std. C37.12–2018—IEEE Guide for Specifications of High-Voltage Circuit Breakers (over 1000 V), approved December 5, 2018 (''IEEE C37.12'').

• IEEE Std. C37.13–2015—IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, approved December 5, 2015 (''IEEE C37.13'').

• IEEE Std. C37.14–2015—IEEE Standard for DC (3200 V and below) Power Circuit Breakers Used in Enclosures, approved 26 Mar. 2015 (''IEEE C37.14'').

• IEEE Std. C37.27–2015—IEEE Guide for Low-Voltage AC (635 V and below) Power Circuit Breakers Applied with Separately-Mounted Current-Limiting Fuses, approved December 5, 2015 (''IEEE C37.27'').

• IEEE Std. 45.1–2017—IEEE Recommended Practice for Electrical Installations on Shipboard—Design, approved 23 Mar. 2017 (''IEEE 45.1–2017'').

• IEEE Std. 45.2–2011—IEEE Recommended Practice for Electrical Installations on Shipboard—Controls and Automation, approved 10 Sep. 2011 (''IEEE 45.2–2011'').

• IEEE Std. 45.6–2016—IEEE Recommended Practice for Electrical Installations on Shipboard—Electrical Testing, approved 7 Dec. 2016 (''IEEE 45.6–2016'').

• IEEE Std. 45.7–2012—IEEE Recommended Practice for Electrical Installations on Shipboard—AC Switchboards, approved 29 Mar. 2012 (''IEEE 45.7–2012'').

• IEEE Std. 45.8–2016—IEEE Recommended Practice for Electrical Installations on Shipboard—Cable Systems, approved 29 Jan. 2016 (''IEEE 45.8–2016'').

• IEEE Std. 100—The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition, published December 2000 (''IEEE 100'').

• IEEE Std. 1202–2006 (R2012)—IEEE Standard for Flame-Propagation Testing of Wire and Cable, reaffirmed December 5, 2012, (''IEEE 1202'').

• IEEE Std 1202–2006/Cor 1–2012—IEEE Standard for Flame-Propagation Testing of Wire and Cable Corrigendum 1, approved November 21, 2012 (''IEEE 1202'').

• IEEE Std. 1580–2010—IEEE Recommended Practice for Marine Cable for Use on Shipboard and Fixed or Floating Facilities, approved September 30, 2010 (''IEEE 1580'').

• IEC 60068–2–52:2017—Environmental testing—Part 2–52: Tests—Test Kb: Salt mist, cyclic (sodium chloride solution), Edition 3.0, 2017–11.

• IEC 60079–1:2014—Explosive atmospheres—Part 1: Equipment protection by flameproof enclosures ''d'', Edition 7.0, 2014–06.

• IEC 60079–2:2014—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'', Edition 6.0, 2014–07.

• IEC 60079–2:2014/COR1:2015—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'' with Corrigendum 1, Edition 6.0, 2015.

• IEC 60079–5:2015—Explosive atmospheres—Part 5: Equipment protection by powder filling ''q'', Edition 4.0, 2015–02.

• IEC 60079–6:2015—Explosive atmospheres—Part 6: Equipment protection by liquid immersion ''o'', Edition 4.0, 2015–02.

• IEC 60079–7:2015+AMD1:2017 CSV (Consolidated Version)—Explosive atmospheres—Part 7: Equipment protection by increased safety ''e'', Edition 5.1, 2017–08, (''IEC 60079–7:2015).

• IEC 60079–11:2011—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'', Edition 6.0, 2011–06.

• IEC 60079–11:2011—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'' with Corrigendum 1 (Jan. 2012), Edition 6.0, 2011–06.

• IEC 60079–13:2017—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'' and artificially ventilated room ''v'' Edition 2.0, 2017–05.

• IEC 60079–15:2017—Explosive atmospheres—Part 15: Equipment protection by type of protection ''n'', Edition 5.0, 2017–12.

• IEC 60079–18:2017 (Consolidated version)—Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Edition 4.1, 2017–08.

• IEC 60079–25:2010—Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010–02.

• IEC 60079–30–1:2007—Part 30–1: Electrical resistance trace heating—General and testing requirements, First Edition, 2007–01.

• IEC 60092–101:2018—Electrical installations in ships—Part 101: Definitions and general requirements, Edition 5.0, 2018–10.

• IEC 60092–201:2019—Electrical installations in ships—Part 201: System design—General, Edition 5.0, 2019–09.

• IEC 60092–202:2016—Electrical installations in ships—Part 202: System design—Protection, Edition 5.0, 2016–09.

• IEC 60092–301:1980—Electrical installations in ships—Part 301: Equipment—Generators and motors, Third Edition with amendment 1 (1994–05) and Amendment 2 (1995–04), 1980.

• IEC 60092–301:1980/AMD1:1994—Electrical installations in ships—Part 301: Equipment—Generators and motors, Third Edition with Amendment 1, 1994–05.

• IEC 60092–301:1980/AMD2:1995—Electrical installations in ships—Part 301: Equipment—Generators and motors, Third Edition with Amendment 2, 1995–04.

• IEC 60092–302:1997—Electrical Installation in ships—Part 302: Low-voltage switchgear and control gear assemblies, Fourth Edition, 1997–05.

• IEC 60092–303:1980—Electrical installations in ships—Part 303: Equipment—Transformers for power and lighting, Third Edition, 1980.

• IEC 60092–303:1980/AMD1:1997—Electrical installations in ships—Part 303: Equipment—Transformers for power and lighting, Third Edition with Amendment 1, 1997–09.

• IEC 60092–304:1980—Electrical installations in ships—Part 304: Equipment—Semiconductor convertors, Third Edition, 1980–01.

• IEC 60092–304:1980/AMD1:1995—Electrical installations in ships—Part 304: Equipment—Semiconductor convertors, Third Edition with Amendment 1, 1995–04.

• IEC 60092–306:2009—Electrical installation in ships—Part 306: Equipment—Luminaires and lighting accessories, Edition 4.0, 2009–11.

• IEC 60092–350:2014—Electrical installations in ships—Part 350: General construction and test methods of power, control and instrumentation cables for shipboard and offshore applications, Edition 4.0, 2014–08.

• IEC 60092–352:2005—Electrical installation in ships—Part 352: Choice and Installation of electrical cables, Third Edition, 2005–09.

• IEC 60092–353:2016—Electrical installation in ships—Part 353: Power cables for rated voltages 1 kV and 3 kV, Edition 4.0, 2016–09.

• IEC 60092–354:2014—Electrical installations in ships—Part 354: Single- and three-core power cables with extruded solid insulation for rated voltages 6 kV ($U_m$=7,2 kV) up to 30 kV ($U_m$=36 kV), Edition 3.0, 2014–08.

• IEC 60092–360:2014—Electrical installations in ships—Part 360: Insulating and sheathing materials for shipboard and offshore units, power, control, instrumentation and telecommunication cables, Edition 1.0, 2014–04.

• IEC 60092–376:2017—Electrical installations in ships—Part 376: Cables for control and instrumentation circuits 150/250 V (300 V), Third Edition, 2017–05.

- IEC 60092–401:1980—Electrical installations in ships—Part 401: Installation and test of completed installation, Third Edition, 1980.
- IEC 60092–401:1980/AMD1:1987—Electrical installations in ships—Part 401: Installation and test of completed installation, Amendment 1, (1987–02).
- IEC 60092–401:1980/AMD2:1997—Electrical installations in ships—Part 401: Installation and test of completed installation, Amendment 2 (1997–04).
- IEC 60092–502:1999—Electrical installations in ships—Part 502: Tankers—Special features, Fifth Edition, 1999–02.
- IEC 60092–503:2007(E)—Electrical installations in ships—Part 503: Special features—AC supply systems with voltages in the range of above 1kV up to and including 15 kV, Second Edition, 2007–06, (''IEC 60092–503:2007'').
- IEC 60331–11:1999+A1:2009—Tests for electric cables under fire conditions—Circuit integrity—Part 11: Apparatus—Fire alone at a flame temperature of at least 750 °C, Edition 1.1, 2009–07, (''IEC 60331–11:2009'').
- IEC 60331–21:1999—Tests for electric cables under fire conditions—Circuit integrity—Part 21: Procedures and requirements—Cables of rated voltage up to and including 0.6/1.0kV, First Edition, 1999–04.
- IEC 60332–1–1:2015—Tests on electric and optical fibre cables under fire conditions—Part 1–1: Test for vertical flame propagation for a single insulated wire or cable—Apparatus, First Edition with Amendment 1, 2015–07.
- IEC 60332–1–2:2015—Tests on electric and optical fibre cables under fire conditions—Part 1–2: Test for vertical flame propagation for a single insulated wire or cable—Procedure for 1kW pre-mixed flame, First Edition with Amendment 1, 2015–07.
- IEC 60332–3–21:2018—Tests on electric and optical fibre cables under fire conditions—Part 3–21: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A F/R, Edition 2.0, 2018–07.
- IEC 60332–3–22:2018—Tests on electric and optical fibre cables under fire conditions—Part 3–22: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A, Edition 2.0, 2018–07.
- IEC 60529:2013—Degrees of protection provided by enclosures (IP Code), Edition 2.2, 2013–08.
- IEC 60533:2015—Electrical and electronic installations in ships—Electromagnetic compatibility—Ships with a metallic hull, Edition 3.0, 2015–08.
- IEC 60947–2:2019—Low-voltage switchgear and controlgear—Part 2: Circuit-breakers, Edition 5.1, 2019–07.
- IEC 61363–1:1998—Electrical installations of ships and mobile and fixed offshore units—Part 1: Procedures for calculating short-circuit currents in three-phase a.c., First Edition, 1998–02.
- IEC 61439–6:2012: Low-voltage switchgear and control gear assemblies—Part 6: Busbar trunking systems (busways), Edition 1.0, 2012.
- IEC 61660–1:1997—Short-circuit currents in d.c. auxiliary installations in power plants and substations—Part 1: Calculation of short-circuit currents, First Edition, 1997–06.
- IEC 61660–1:1997/COR1:1999, Short-circuit currents in d.c. auxiliary installations in power plants and substations—Part 1: Calculation of short-circuit currents, Corrigendum 1 (March 1999), First Edition.
- IEC 61660–1:1997/COR2:2000, Short-circuit currents in d.c. auxiliary installations in power plants and substations—Part 1: Calculation of short-circuit currents, Corrigendum 2 (March 2000), First Edition.
- IEC 61892–7:2019—Mobile and fixed offshore units—Electrical installations—Part 7: Hazardous areas, Edition 4.0, 2019–04.
- IEC 62271–100:2017 (Consolidated Version)—High-voltage switchgear and controlgear—Part 100: Alternating-current circuit-breakers, Edition 2.2, 2017–06.
- IEC/TR 60092–370:2009—Technical Report—Electrical installations in ships—Part 370: Guidance on the selection of cables for telecommunication and data transfer including radio-frequency cables, Edition 1.0, 2009–07.
- IEC/IEEE 80005–1:2019—Utility connections in port—Part 1: High voltage shore connection (HVSC) systems—General requirements, Edition 2.0, 2019–03.
- ISO 25861:2007(E)—Ships and marine technology—Navigation—Daylight signalling lamps, First edition, Dec. 1, 2007.
- NEMA ICS 2–2000 (R2005)—Industrial Control and Systems Controllers, Contactors, and Overload Relays, Rated 600 Volts, 2000 (''NEMA ICS 2'').
- NEMA ICS 2.3–1995 (R2002, R2008)—Instructions for the Handling, Installation, Operation, and Maintenance of Motor Control Centers Rated not More Than 600 Volts, 1995 (''NEMA ICS 2.3'').
- NEMA ICS 2.4–2003 (R2012)—NEMA and IEC Devices for Motor Service—A Guide for Understanding the Differences, 2003 (''NEMA ICS 2.4'').
- NEMA 250–2018—Enclosures for Electrical Equipment (1000 Volts Maximum), 2018 (''NEMA 250'').
- ANSI/NEMA WC–70—Power Cables Rated 2000 Volts or Less for the Distribution of Electrical Energy, Feb. 23, 2009 (''ANSI/NEMA WC–70'').
- NFPA 70—National Electrical Code, 2017 Edition, ANSI-approved August 24, 2016 (''NFPA 70'').
- NFPA 77—Recommended Practice on Static Electricity, ANSI-approved May 24, 2018, 2019 Edition (''NFPA 77'').
- NFPA 99—Health Care Facilities Code, 2018 Edition, ANSI-approved September 6, 2017 (''NFPA 99'').
- NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2017 Edition, ANSI-approved June 2, 2016 (''NFPA 496 (2017)'').
- UL 44—Standard for Safety Thermoset-Insulated Wire and Cable, Nineteenth Edition, Jan. 9, 2018 (''ANSI/UL 44'').
- UL 50—Standard for Safety Enclosures for Electrical Equipment, Non-Environmental Considerations, Thirteenth Edition, Oct. 16, 2015 (''UL 50'').
- UL 62—Standard for Safety Flexible Cords and Cables, Twentieth Edition, July 6, 2018 (''ANSI/UL 62'').
- UL 83—Standard for Safety Thermoplastic-Insulated Wires and Cables, Sixteenth Edition, Jul. 28, 2017 (''ANSI/UL 83'').
- UL 484—Standard for Safety Room Air Conditioners, Ninth Edition, Feb. 7, 2014 (''ANSI/UL 484'').
- UL 489—Standard for Safety Molded-Case Circuit Breakers, Molded-Case Switches and Circuit-Breaker Enclosures, Thirteenth Edition, Oct. 24, 2016 (''ANSI/UL 489'').
- UL 514A—Standard for Safety Metallic Outlet Boxes, Eleventh Edition, Feb. 1, 2013 (''ANSI/UL 514A'').
- UL 514B—Standard for Safety Conduit, Tubing, and Cable Fittings, Sixth Edition, revised Nov. 21, 2014 (''ANSI/UL 514B'').
- UL 514C—Standard for Safety Nonmetallic Outlet Boxes, Flush-Device Boxes, and Covers, Fourth Edition, revised Dec. 10, 2014 (''ANSI/UL 514C'').
- UL 674—Standard for Safety Electric Motors and Generators for Use in Hazardous (Classified) Locations, Fifth Edition, May 31, 2011 (''ANSI/UL 674'').
- UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, Ninth Edition, revised Nov. 15, 2007) (''ANSI/UL 823'').
- UL 844—Standard for Safety Luminaires for Use in Hazardous

(Classified) Locations, Thirteenth Edition, June 29, 2012 (''ANSI/UL 844).

• UL 913—Standard for Safety Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, Eighth Edition, 2013 (''ANSI/UL 913'').

• UL 1042—Standard for Safety Electric Baseboard Heating Equipment, Fifth Edition, revised Sep. 9, 2014 (''ANSI/UL 1042'').

• UL 1072—Standard for Safety Medium-Voltage Power Cables, Fourth Edition, revised June 19, 2013 (''ANSI/UL 1072'').

• UL 1104—Standard for Safety for Marine Navigation Lights, Second Edition, Oct. 29, 1998, (''ANSI/UL 1104'').

• UL 1203—Standard for Safety: Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, Fifth Edition, revised Apr. 24, 2015 (''ANSI/UL 1203'').

• UL 1309—Standard for Safety Marine Shipboard Cables, Third Edition, Apr. 21, 2017 (''ANSI/UL 1309'').

• UL 1598—Standard for Safety Luminaires, Fourth Edition, Aug. 28, 2018 (''ANSI/UL 1598'').

• UL 1598A—Standard for Safety Supplemental Requirements for Luminaires for Installation on Marine Vessels, First Edition, (with revisions through Apr. 17, 2015), Dec. 4, 2000, (''ANSI/UL 1598A'').

• UL 2021—Standard for Safety Fixed and Location-Dedicated Electric Room Heaters, Fourth Edition, Sept. 30, 2015 (''ANSI/UL 2021'').

• UL 2225—Standard for Safety Cables and Cable-Fittings for use in Hazardous (Classified) Locations, Fourth Edition, Sept. 30, 2013 (''ANSI/UL 2225'').

• UL 2556—Standard for Safety Wire and Cable Test Methods, Fourth Edition, Dec. 15, 2015 (''ANSI/UL 2556'').

• UL 60079–18—Standard for Safety Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation ''m'', Fourth Edition, revised Feb. 20, 2017 (''ANSI/UL 60079–18'').

The sections that reference these standards and the locations where these standards are available are listed in § 110.10–1.

This rule also uses technical standards other than voluntary consensus standards. These are not government-unique standards but rather standards issued by the International Maritime Organization and two vessel classification societies, all of which have a long history of developing standards to ensure vessel safety and seaworthiness. Additionally, we incorporate several military specifications that are extensively used by the maritime community.

ABS Rules for Building and Classing Marine Vessels, 2020, (''ABS Marine Vessel Rules''), including:

(i) Part 1: Rules for Conditions of Classification;

(ii) Part 2: Rules for Materials and Welding;

(iii) Part 3: Rules for Building and Classing Marine Vessels—Hull Construction and Equipment;

(iv) Part 4: Rules for Building and Classing Marine Vessels—Vessel Systems and Machinery;

(v) Part 5A & 5B: Rules for Building and Classing Marine Vessels—Specific Vessel Types; Common Structural Rules for Bulk Carriers and Oil Tankers;

(vi) Part 5C: Rules for Building and Classing Marine Vessels—Specific Vessel Types (Chapters 1–6 and 7–18);

(vii) Part 5C: Rules for Building and Classing Marine Vessels—Specific Vessel Types (Chapters 7–18);

(viii) Part 5D: Rules for Building and Classing Marine Vessels—Offshore Support Vessels for Specialized Services;

(ix) Part 6: Rules for Building and Classing Marine Vessels—Specialized Items and Systems; and

(x) Part 7: Rules for Survey after Construction.

• ABS Rules for Building and Classing Mobile Offshore Units, Part 4 Machinery and Systems, 2020 (''ABS MOU Rules'').

• Lloyd's Register Type Approval System-Test Specification Number 1, March 2019.

• MIL–DTL–76E—Military Specification Wire and Cable, Hookup, Electrical, Insulated, General Specification for, Nov. 3, 2016 (''MIL–DTL–76E'').

• MIL–DTL–24640C—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, Nov. 8, 2011 (''MIL–DTL–24640C'').

• MIL–DTL–24640C Supplement 1—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, Nov. 8, 2011 (''MIL–DTL–24640C'').

• MIL–DTL–24643C—Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for, Oct. 1, 2009(''MIL–DTL–24643C'').

• MIL–DTL–24643C Supplement 1A—Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for, including Supplement 1A, Dec. 13, 2011, (''MIL–DTL–24643C'').

• SOLAS Consolidated Version, Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: article, annexes and certificates, (Incorporating all amendments in effect from 1 July 2014), Sixth edition, 2014 (''IMO SOLAS 74'').

• IMO Resolution A.1023(26)—Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009, 18 Jan. 2010 (''2009 IMO MODU Code'').

The sections that reference these standards and the locations and web addresses where these standards are available are listed in § 110.10–1.

The Director of the Federal Register has approved the material in § 110.10–1 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in § 110.10–1(a).

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from the organizations identified in 46 CFR 110.10–1, or may view a copy by means we have identified in that section.

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraphs L54 and L57 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Paragraph L54 pertains to regulations that are editorial or procedural. Paragraph L57 pertains to regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

This rule involves incorporating by reference several updated electrical engineering standards along with removing several outdated or unnecessarily prescriptive electrical engineering regulations.

**List of Subjects**

*46 CFR Part 110*

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

*46 CFR Parts 111 and 112*

Incorporation by reference, Vessels.

*46 CFR Part 113*

Communications equipment, Fire prevention, Incorporation by reference, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 110, 111, 112, and 113 as follows:

## Title 46—Shipping

## PART 110—General Provisions

■ 1. The authority citation for part 110 is revised to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2; § 110.01–2 also issued under 44 U.S.C. 3507. Sections 110.15–1 and 110.25–1 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 2. Revise § 110.01–1(b) to read as follows:

* * * * *

(b) This subchapter applies only to electrical installations contracted for after April 17, 2023.

* * * * *

■ 3. Revise § 110.10–1 to read as follows.

### § 110.10–1 Incorporation by reference.

Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the U.S. Coast Guard and at the National Archives and Records Administration (NARA). Contact U.S. Coast Guard at: U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr Ave. SE, Stop 7418, Washington, DC 20593–7418, 202–372–1384, *www.dco.uscg.mil/CG–ENG/.* For information on the availability of this material at NARA, email: *fr.inspection@nara.gov;* website: *www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the following sources:

(a) *American Bureau of Shipping (ABS),* 1701 City Plaza Drive, Spring, TX 77389; 281–877–5800; *CSC@eagle.org; ww2.eagle.org.*

(1) Rules for Building and Classing Marine Vessels, January 2020 (''ABS Marine Vessel Rules''); IBR approved for §§ 110.15–1(b); 111.01–9(b); 111.12–3; 111.12–5; 111.12–7(a) and (b); 111.33–11; 111.35–1; 111.70–1(a); 111.105–31(o); 111.105–39 introductory text and (a); 111.105–40(a) and (c); 112.05–7(c);113.05–7(a); including:

(i) Part 1: Rules for Conditions of Classification;

(ii) Part 2: Rules for Materials and Welding;

(iii) Part 3: Rules for Building and Classing Marine Vessels Hull—Hull Construction and Equipment;

(iv) Part 4: Rules for Building and Classing Marine Vessels Vessel—Vessel Systems and Machinery;

(v) Part 5A & 5B: Rules for Building and Classing Marine Vessels—Specific Vessel Types; Common Structural Rules for Bulk Carriers and Oil Tankers;

(vi) Part 5C: Rules for Building and Classing Marine Vessels—Specific Vessel Types (Chapters 1–6 and 7–18);

(vii) Part 5C: Rules for Building and Classing Marine Vessels—Specific Vessel Types (Chapters 7–18);

(viii) Part 5D: Rules for Building and Classing Marine Vessels—Offshore Support Vessels for Specialized Services;

(ix) Part 6: Rules for Building and Classing Marine Vessels—Specialized Items and Systems; and

(x) Part 7: Rules for Survey after Construction.

(2) Rules for Building and Classing Mobile Offshore Units, Part 4 Machinery and Systems, January 2020 (''ABS MOU Rules''); IBR approved for §§ 111.12–1(a); 111.12–3; 111.12–5; 111.12–7(c); 111.33–11; 111.35–1; 111.70–1(a).

(b) *American National Standards Institute (ANSI),* 25 West 43rd Street, New York, NY 10036; 212–642–4900; *info@ansi.org; www.ansi.org.*

(1) ANSI/ISA–RP12.06.01–2003, Recommended Practice for Wiring Methods for Hazardous (Classified) Locations Instrumentation Part 1: Intrinsic Safety, approved April 16, 2003 (''ANSI RP12.06.01''); IBR approved for § 111.105–11(b).

(2) ANSI/ISA 12.12.01–2015, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations, approved August 21, 2015 (''ANSI/ISA 12.12.01''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(c) *American Petroleum Institute (API),* 200 Massachusetts Avenue NW, Suite 1100. Washington, DC 20001–5571; 202–682–8000; *APIPubs@api.org; www.api.org.*

(1) API Recommended Practice 14F, Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Division 1 and Division 2 Locations, Sixth Edition, October 2018 (''API RP 14F''); IBR approved for § 111.105–17(b).

(2) API Recommended Practice 14FZ, Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1, and Zone 2 Locations, Second Edition, May 2013, (''API RP 14FZ''); IBR approved for § 111.105–17(b).

(3) API Recommended Practice 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Third Edition, December 2012 with errata January 2014 (''API RP 500''); IBR approved for §§ 111.106–7(a) and 111.106–13(b).

(4) API Recommended Practice 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, Second Edition, August 2018 (''API RP 505''); IBR approved for §§ 111.106–7(a); 111.106–13(b).

(d) *American Society of Mechanical Engineers* (*ASME),* Two Park Avenue, New York, NY 10016–5990; 800–843–2763; *CustomerCare@asme.org; www.asme.org.*

(1) ASME A17.1–2016/CSA B44–16, Safety Code for Elevators and Escalators: Includes Requirements for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, reissued January 16, 2017 with errata (''ASME A17.1''); IBR approved for § 111.91–1.

(2) [Reserved]

(e) *ASTM International (ASTM),* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; 610–832–9500; *service@astm.org; www.astm.org.*

(1) ASTM B117–19, Standard Practice for Operating Salt Spray (Fog) Apparatus, approved November 1, 2019 (''ASTM B117''); IBR approved for § 110.15–1(b).

(2) ASTM F2876–10 (Reapproved 2015), Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, Reapproved May 1, 2015 (''ASTM F2876–10''); IBR approved for §§ 111.105–28; 111.106–3(h); 111.108–3(g).

(f) *CSA Group,* 178 Rexdale Blvd., Toronto, ON, Canada M9W 1R3; 800–463–6727; *client.services@csagroup.org; www.csagroup.org.*

(1) CSA C22.2 No. 30–M1986 (Reaffirmed 2016), Explosion-proof enclosures for use in class I hazardous locations, Reaffirmed 2016 (''CSA C22.2 No. 30–M1986''), IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(2) CSA C22.2 No. 213–16, Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (classified) locations, May 2016 (''CSA C22.2 No. 213–16''); IBR approved for §§ 111.105–3(b); 111.106–3(b) and 111.108–3(b).

(3) CSA–C22.2 No. 0–10 (Reaffirmed 2015), General requirements—Canadian Electrical Code, Part II, including Update No. 2, dated November 2014, Reaffirmed 2015 (''CSA C22.2 No. 0–10''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(4) CAN/CSA–C22.2 No. 157–92 (Reaffirmed 2016)—Intrinsically safe and non-incendive equipment for use in hazardous locations, including Update No. 2, dated June 2003, Reaffirmed 2016 (''CSA C22.2 No. 157–92''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(g) *DLA Document Services,* Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111, 215–697–6396; *dlacontactcenter@dla.mil*; *https://quicksearch.dla.mil/qsSearch.aspx.*

(1) MIL–DTL–76E, Military Specification Wire and Cable, Hookup, Electrical, Insulated, General Specification for, Nov. 3, 2016 (''MIL–DTL–76E''); IBR approved for § 111.60–11(c).

(2) MIL–DTL–24640C—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, (''MIL–DTL–24640C''), including:

(i) MIL–DTL–24640C, November 8, 2011; IBR approved for §§ 111.60–1(a); 111.106–5(a); and

(ii) MIL–DTL–24640C Supplement 1, November 8, 2011; IBR approved for §§ 111.60–1(a); 111.106–5(a).

(3) MIL–DTL–24643C, Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for (''MIL–DTL–24643C''), including:

(i) MIL–DTL–24643C, October 1, 2009; IBR approved for §§ 111.60–1(a); 111.106–5(a); and

(ii) MIL–DTL–24643C with Supplement 1A, 13 December 2011; IBR approved for §§ 111.60–1(a); 111.106–5(a).

(h) *European Committee for Standardization,* CEN–CENELEC Management Centre, rue de la Sence 23, B–1040 Brussels, Belgium; + 32 2 550 08 1; *info@cencenelec.eu; www.cen.eu.*

(1) EN 14744, Inland navigation vessels and sea-going vessels—Navigation light, English version, August 2005; IBR approved for § 111.75–17(d).

(2) [Reserved]

(i) *FM Approvals,* P.O. Box 9102, Norwood, MA 02062, 781–762–4300; *https://www.fmglobal.com/report-contact-page/general-contact-form*; *https://www.fmapprovals.com.*

(1) Class Number 3600, Approval Standard for Electrical Equipment for Use in Hazardous (Classified) Locations—General Requirements, January 2018 (''FM Approvals Class Number 3600''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(2) Class Number 3610, Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3610''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(3) Class Number 3611, Approval Standard for Nonincendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3611''), IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(4) Class Number 3615, Approval Standard for Explosion-proof Electrical Equipment General Requirements, January 2018 (''FM Approvals Class Number 3615''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(5) Class Number 3620, Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, January 2018 (''FM Approvals Class Number 3620''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(j) *Institute of Electrical and Electronic Engineers (IEEE),* 3 Park Avenue, New York, NY 10016–5997; 800–701–4333; *contactcenter@ieee.org; www.ieee.org.*

(1) IEEE Std. C37.04–2018, IEEE Standard Rating for Ratings and Requirements for AC High-Voltage Circuit Breakers with Rated Maximum Voltage Above 1000 V, approved December 5, 2018 (''IEEE C37.04''); IBR approved for § 111.54–1(c).

(2) IEEE Std. C37.010–2016, IEEE Application Guide for AC High-Voltage Circuit Breakers >1000 Vac Rated on a Symmetrical Current Basis, approved September 22, 2016 (''IEEE C37.010''); IBR approved for § 111.54–1(c).

(3) IEEE Std. C37.12–2018, IEEE Guide for Specifications of High-Voltage Circuit Breakers (over 1000 V), approved December 5, 2018 (''IEEE C37.12''); IBR approved for § 111.54–1(c).

(4) IEEE Std. C37.13–2015, IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, approved December 5, 2015 (''IEEE C37.13''); IBR approved for § 111.54–1(c).

(5) IEEE Std. C37.14–2015, IEEE Standard for DC (3200 V and below) Power Circuit Breakers Used in Enclosures, approved March 26, 2015 (''IEEE C37.14''); IBR approved for § 111.54–1(c).

(6) IEEE Std. C37.27–2015, IEEE Guide for Low-Voltage AC (635 V and below) Power Circuit Breakers Applied with Separately-Mounted Current-Limiting Fuses, approved December 5, 2015 (''IEEE C37.27''); IBR approved for § 111.54–1(c).

(7) IEEE Std. 45.1–2017 IEEE Recommended Practice for Electrical Installations on Shipboard—Design, approved March 23, 2017 (''IEEE 45.1–2017''); IBR approved for §§ 111.15–2(b); 111.40–1; 111.75–5(b); 111.105–41; and 113.65–5.

(8) IEEE Std. 45.2–2011, IEEE Recommended Practice for Electrical Installations on Shipboard—Controls and Automation, approved September 10, 2011 (''IEEE 45.2–2011''); IBR approved for §§ 111.33–3(a); 111.33–5(a).

(9) IEEE Std. 45.6–2016; IEEE Recommended Practice for Electrical Installations on Shipboard—Electrical Testing, approved December 7, 2016 (''IEEE 45.6–2016''); IBR approved for § 111.60–21.

(10) IEEE Std. 45.7–2012, IEEE Recommended Practice for Electrical Installations on Shipboard—AC Switchboards, approved March 29, 2012 (''IEEE 45.7–2012''); IBR approved for §§ 111.30–1; 111.30–5(a); 111.30–19(a).

(11) IEEE Std. 45.8–2016, IEEE Recommended Practice for Electrical Installations on Shipboard—Cable Systems, approved January 29, 2016 (''IEEE 45.8–2016''); IBR approved for §§ 111.05–7; 111.60–5(a); 111.60–13(a); 111.60–19(b).

(12) IEEE Std. 100, The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition, published December 2000 (''IEEE 100''); IBR approved for § 110.15–1(a).

(13) IEEE Std. 1202–2006, IEEE Standard for Flame-Propagation Testing of Wire and Cable, (''IEEE 1202''), including:

(i) IEEE Std. 1202–2006 (R2012), reaffirmed December 5, 2012; IBR

approved for §§ 111.60–6(a); 111.107–1(c); and

(ii) IEEE Std. 1202–2006/Cor 1–2012, Corrigendum 1 approved November 21, 2012; IBR approved for §§ 111.60–6(a); 111.107–1(c).

(15) IEEE Std. 1580–2010, IEEE Recommended Practice for Marine Cable for Use on Shipboard and Fixed or Floating Facilities, approved September 30, 2010 (''IEEE 1580''); IBR approved for §§ 111.60–1(a); 111.60–2; 111.106–5(a).

(k) *International Electrotechnical Commission (IEC),* 3 Rue de Varembe, Geneva, Switzerland; +41 22 919 02 11; *www.iec.ch*; *https://www.iec.ch/contact?id=40499*.

(1) IEC 60068–2–52:2017, Environmental testing—Part 2–52: Tests—Test Kb: Salt mist, cyclic (sodium chloride solution), Edition 3.0, 2017–11; IBR approved for § 110.15–1(b).

(2) IEC 60079–1:2014, Explosive atmospheres—Part 1: Equipment protection by flameproof enclosures ''d'', Edition 7.0, 2014–06; IBR approved for §§ 111.105–3(b); 106–3(b); 111.108–3(b).

(3) IEC 60079–2:2014, Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'', including:

(i) IEC 60079–2:2014, Edition 6.0, 2014–07, IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b); and

(ii) IEC 60079–2:2014/COR1:2015, with Corrigendum 1 (2015), Edition 6.0, 2014–07; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(4) IEC 60079–5:2015, Explosive atmospheres—Part 5: Equipment protection by powder filling ''q'', Edition 4.0, 2015–02, IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(5) IEC 60079–6:2015, Explosive atmospheres—Part 6: Equipment protection by liquid immersion ''o'', Edition 4.0, 2015–02; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(6) IEC 60079–7:2015+AMD1:2017 CSV (Consolidated Version), Explosive atmospheres—Part 7: Equipment protection by increased safety ''e'', Edition 5.1, 2017–08, (''IEC 60079–7:2015''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(7) IEC 60079–11:2011, Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'' (''IEC 60079–11:2011''), including:

(i) IEC 60079–11:2011, Edition 6.0, 2011–06; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b); and

(ii) IEC 60079–11:2011, Corrigendum 1 (January 2012), Edition 6.0, 2011–06; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(8) IEC 60079–13:2017, Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'' and artificially ventilated room ''v'', Edition 2.0, 2017–05; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(9) IEC 60079–15:2017, Explosive atmospheres—Part 15: Equipment protection by type of protection ''n'', Edition 5.0, 2017–12; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(10) IEC 60079–18:2017 (Consolidated Version), Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Edition 4.1, 2017–08, (''IEC 60079–18:2017''); IBR approved for §§ 111.105–3 (b)and (e); 111.106–3(b) and (d); 111.108–3(b) and (e).

(11) IEC 60079–25:2010, Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010–02; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(12) IEC 60079–30–1:2007, Part 30–1: Electrical resistance trace heating—General and testing requirements, First Edition, 2007–01; IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(13) IEC 60092–101:2018, Electrical installations in ships—Definitions and general requirements, Edition 5.0, 2018–10; IBR approved for §§ 110.15–1(a); 111.81–1(d).

(14) IEC 60092–201:2019, Electrical installations in ships—Part 201: System design—General, Edition 5.0, 2019–09; IBR approved for §§ 111.70–3(a); 111.81–1(d).

(15) IEC 60092–202:2016, Electrical installations in ships—Part 202: System design—Protection, Edition 5.0, 2016–09; IBR approved for §§ 111.12–7(b); 111.50–3(c), (e), and (g); 111.53–1(a); 111.54–1(a).

(16) IEC 60092–301:1980, Electrical installations in ships—Part 301: Equipment—Generators and motors, (''IEC 60092–301:1980''), including:

(i) IEC 60092–301:1980, Third Edition, copyright 1980; IBR approved for §§ 111.12–7(b); 111.70–1(a);

(ii) IEC 60092–301:1980/AMD1:1994, Amendment 1 (1994–05), copyright 1980, IBR approved for §§ 111.12–7(b); 111.70–1(a); and

(iii) IEC 60092–301:1980/AMD2:1995, Amendment 2 (1995–04), copyright 1980; IBR approved for §§ 111.12–7(b); 111.70–1(a).

(17) IEC 60092–302:1997, Electrical Installation in ships—Part 302: Low-voltage switchgear and control gear assemblies, Fourth Edition, 1997–05; IBR approved for §§ 111.30–1; 111.30–5; 111.30–19(a).

(18) IEC 60092–303:1980, Electrical installations in ships—Part 303: Equipment—Transformers for power and lighting, (''IEC 60092–303:1980), including:

(i) IEC 60092–303:1980, Third Edition, 1997–09, copyright 1980; IBR approved for § 111.20–15; and

(ii) IEC 60092–303:1980/AMD1:1997, Amendment 1, copyright 1980; IBR approved for § 111.20–15.

(19) IEC 60092–304:1980, Electrical installations in ships—Part 304: Equipment—Semiconductor convertors, (''IEC 60092–304:1980''), including:

(i) IEC 60092–304:1980, Third Edition, (1980–01); IBR approved for §§ 111.33–3(a); 111.33–5(b); and

(ii) IEC 60092–304:1980/AMD1:1995, Amendment 1, 1995–04; IBR approved for §§ 111.33–3(a); 111.33–5(b).

(20) IEC 60092–306:2009, Electrical installation in ships—Part 306: Equipment—Luminaires and lighting accessories, Edition 4.0, 2009–11; IBR approved for §§ 111.75–20(a) and (b); 111.81–1(d).

(21) IEC 60092–350:2014, Electrical installations in ships—Part 350: General construction and test methods of power, control and instrumentation cables for shipboard and offshore applications, Edition 4.0, 2014–08; IBR approved for §§ 111.60–1(a); 111.106–5(a).

(22) IEC 60092–352:2005, Electrical installation in ships—Part 352: Choice and Installation of electrical cables, Third Edition, 2005–09; IBR approved for §§ 111.60–1; 111.60–5(a) and (b); 111.81–1(d).

(23) IEC 60092–353:2016, Electrical installation in ships—Part 353: Power cables for rated voltages 1 kV and 3 kV, Edition 4.0, 2016–09; IBR approved for §§ 111.60–1(a); 111.60–5(a); 111.106–5(a).

(24) IEC 60092–354:2014, Electrical installations in ships—Part 354: Single- and three-core power cables with extruded solid insulation for rated voltages 6 kV ($U_m$=7,2 kV) up to 30 kV ($U_m$=36 kV), Edition 3.0, 2014–08; IBR approved for § 111.60–1(a).

(25) IEC 60092–360:2014, Electrical installations in ships—Part 360: Insulating and sheathing materials for shipboard and offshore units, power, control, instrumentation and telecommunication cables, Edition 1.0, 2014–04; IBR approved for § 111.60–1(a).

(26) IEC 60092–376:2017, Electrical installations in ships—Part 376: Cables for control and instrumentation circuits 150/250 V (300 V), Third Edition, 2017–05; IBR approved for § 111.60–1(a).

(27) IEC 60092–401:1980, Electrical installations in ships—Part 401: Installation and test of completed installation, (''IEC 60092–401:1980''), including:

(i) IEC 60092–401:1980, Third Edition, 1980; IBR approved for §§ 111.05–9; 111.81–1(d);

(ii) IEC 60092–401:1980/AMD1:1987, Amendment 1, (1987–02), 1980; IBR approved for §§ 111.05–9; 111.81–1(d); and

(iii) IEC 60092–401:1980/AMD2:1997, Amendment 2 (1997–04), 1980; IBR approved for §§ 111.05–9; 111.81–1(d).

(28) IEC 60092–502:1999, Electrical installations in ships—Part 502: Tankers—Special features, Fifth Edition, 1999–02; IBR approved for §§ 111.81–1(d); 111.105–1, 111.105–3(b); 111.105–11(c); 111.105–17(b); 111.105–50(a), (b), and (c); 111.106–3(b); 111.106–5(c); 111.106–15(a); 111.108–3(b).

(29) IEC 60092–503:2007(E), Electrical installations in ships—Part 503: Special features—AC supply systems with voltages in the range of above 1kV up to and including 15 kV, Second Edition, 2007–06 (''IEC 60092–503:2007''); IBR approved for § 111.30–5(a).

(30) IEC 60331–11:1999+A1:2009, Tests for electric cables under fire conditions—Circuit integrity—Part 11: Apparatus—Fire alone at a flame temperature of at least 750 °C, Edition 1.1, 2009–07, (''IEC 60331–11:2009''); IBR approved for § 113.30–25(j).

(31) IEC 60331–21:1999, Tests for electric cables under fire conditions—Circuit integrity—Part 21: Procedures and requirements—Cables of rated voltage up to and including 0.6/1.0kV, First Edition, 1999–04; IBR approved for § 113.30–25(j).

(32) IEC 60332–1–1:2015 (Consolidated Version), Tests on electric and optical fibre cables under fire conditions—Part 1–1: Test for vertical flame propagation for a single insulated wire or cable—Apparatus, Edition 1.1, 2015–07; IBR approved for § 111.30–19(b).

(33) IEC 60332–1–2:2015 (Consolidated Version), Tests on electric and optical fibre cables under fire conditions—Part 1–2: Test for vertical flame propagation for a single insulated wire or cable—Procedure for 1kW pre-mixed flame, Edition 1.1, 2015–07, IBR approved for § 111.30–19(b).

(34) IEC 60332–3–21:2018, Tests on electric and optical fibre cables under fire conditions—Part 3–21: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A F/R, Edition 2.0, 2018–07; IBR approved for §§ 111.60–1(b); 111.60–2; 111.107–1(c).

(35) IEC 60332–3–22:2018, Tests on electric and optical fibre cables under fire conditions—Part 3–22: Test for vertical flame spread of vertically-mounted bunched wires or cables—Category A, Edition 2.0, 2018–07; IBR approved for §§ 111.60–1(b); 111.60–2; 111.60–6(a); 111.107–1(c).

(36) IEC 60529:2013 (Consolidated Version), Degrees of protection provided by enclosures (IP Code), Edition 2.2, 2013–08, (''IEC 60529:2013''); IBR approved for §§ 110.15–1(a); 111.01–9(a), (c), and (d); 113.10–7; 113.20–3; 113.25–11(a); 113.30–25(e) and (i); 113.37–10(b); 113.40–10(b); 113.50–5(g).

(37) IEC 60533:2015, Electrical and electronic installations in ships—Electromagnetic compatibility—Ships with a metallic hull, Edition 3.0, 2015–08; IBR approved for § 113.05–7(a).

(38) IEC 60947–2:2019 (Consolidated Version), Low-voltage switchgear and controlgear—Part 2: Circuit-breakers, Edition 5.1, 2019–07, (''IEC 60947–2:2019''); IBR approved for § 111.54–1(b) and (c).

(39) IEC 61363–1:1998, Electrical installations of ships and mobile and fixed offshore units—Part 1: Procedures for calculating short-circuit currents in three-phase a.c., First Edition, 1998–02; IBR approved for § 111.51–4(b).

(40) IEC 61439–6:2012, Low-voltage switchgear and control gear assemblies—Part 6: Busbar trunking systems (busways), Edition 1.0, 2012–05; IBR approved for § 111.59–1.

(41) IEC 61660–1:1997, Short-circuit currents in d.c. auxiliary installations in power plants and substations—Part 1: Calculation of short-circuit currents, (''IEC 61660–1:1997''), including:

(i) IEC 61660–1:1997, First Edition, 1997–06; IBR approved for § 111.51–4(b);

(ii) IEC 61660–1:1997/COR1:1999, Corrigendum 1 (March 1999), First Edition; IBR approved for § 111.51–4(b); and

(iii) IEC 61660–1:1997/COR2:2000, Corrigendum 2 (March 2000), First Edition; IBR approved for § 111.51–4(b).

(42) IEC 61892–7:2019, Mobile and fixed offshore units—Electrical installations—Part 7: Hazardous areas, Edition 4.0, 2019–04; IBR approved for §§ 111.105–1; 111.105–3(b); 111.105–17(b); 111.108–3(b).

(43) IEC 62271–100:2017 (Consolidated Version), High-voltage switchgear and controlgear—Part 100: Alternating-current circuit-breakers, Edition 2.2, 2017–06; IBR approved for § 111.54–1(c).

(44) IEC/TR 60092–370:2009, Technical Report—Electrical installations in ships—Part 370: Guidance on the selection of cables for telecommunication and data transfer including radio-frequency cables, Edition 1.0, 2009–07; IBR approved for § 111.60–1(a).

(45) IEC/IEEE 80005–1:2019, Utility connections in port—Part 1: High voltage shore connection (HVSC) systems—General requirements, Edition 2.0, 2019–03; IBR approved for § 111.83–7.

(l) *International Maritime Organization (IMO Publications Section),* 4 Albert Embankment, London SE1 7SR, United Kingdom; +44 (0) 20 7735 7611; *sales@imo.org; www.imo.org.*

(1) SOLAS Consolidated Edition 2014, Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: article, annexes and certificates, (Incorporating all amendments in effect from July 1, 2014), Sixth edition, 2014 (''IMO SOLAS 74''); IBR approved for §§ 111.99–5; 112.15–1(r); 113.25–6.

(2) IMO Resolution A.1023(26), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009, January 18, 2010 (''2009 IMO MODU Code''); IBR approved for § 111.108–3(b).

(m) *International Standards Organization (ISO),* Chemin de Blandonnet 8, CP 401—1214 Vernier, Geneva, Switzerland; +41 22 749 01 11; *customerservice@iso.org; www.iso.org.*

(1) ISO 25861:2007(E), Ships and marine technology—Navigation—Daylight signalling lamps, First edition, December 1, 2007, (''ISO 25861''); IBR approved for § 111.75–18.

(2) [Reserved]

(n) *Lloyd's Register,* 71 Fenchurch Street, London EC3M 4BS, UK; +44–0–20–7709–9166; *www.lr.org/en/type-approval-test-specifications.*

(1) Lloyd's Register Type Approval System—Test Specification Number 1, March 2019; IBR approved for § 113.05–7(a).

(2) [Reserved]

(o) *National Electrical Manufacturers Association (NEMA),* 1300 North 17th Street, Suite 900, Arlington, VA 22209; 703–841–3200; *communications@nema.org; www.nema.org.*

(1) NEMA ICS 2–2000 (R2005), Industrial Control and Systems Controllers, Contactors, and Overload Relays, Rated 600 Volts, copyright 2006 (''NEMA ICS 2''); IBR approved for § 111.70–3(a).

(2) NEMA ICS 2.3–1995 (R2002, R2008), Instructions for the Handling, Installation, Operation, and Maintenance of Motor Control Centers Rated not More Than 600 Volts, copyright 2008 (''NEMA ICS 2.3''); IBR approved for § 111.70–3(a).

(3) NEMA ICS 2.4–2003 (R2012), NEMA and IEC Devices for Motor Service—A Guide for Understanding the Differences, copyright 2012 (''NEMA ICS 2.4''); IBR approved for § 111.70–3(a).

(4) NEMA 250–2018, Enclosures for Electrical Equipment (1000 Volts Maximum), 2018 (''NEMA 250''); IBR approved for §§ 110.15–1(b); 111.01–9(a), (b), (c), and (d); 113.10–7; 113.20–3; 113.25–11(a); 113.30–25(e) and (i); 113.37–10(b); 113.40–10(b); 113.50–5(g).

(5) ANSI/NEMA WC–70–2009, Power Cables Rated 2000 Volts or Less for the Distribution of Electrical Energy, February 23, 2009, (''ANSI/NEMA WC–70''); IBR approved for § 111.60–13(a) and (c).

(p) *National Fire Protection Association (NFPA),* 1 Batterymarch Park, Quincy, MA 02169; 617–770–3000; *stds_admin@nfpa.org; www.nfpa.org.*

(1) NFPA 70, National Electrical Code, 2017 Edition, ANSI-approved August 24, 2016 (''NFPA 70''), IBR approved for §§ 110.15–1; 111.05–33; 111.20–15; 111.50–3(c),(e), and (g); 111.50–7(a); 111.50–9; 111.53–1(a); 111.54–1(a); 111.55–1(a); 111.59–1; 111.60–7; 111.60–13(a)–(c); 111.60–23(d) and (f); 111.81–1(d); 111.105–1; 111.105–3(b); 111.105–11(a) and (c); 111.105–17(b); 111.106–3(b); 111.106–5(c); 111.107–1(b); 111.108–3(b).

(2) NFPA 77, Recommended Practice on Static Electricity, 2019 Edition, ANSI-approved May 24, 2018, (''NFPA 77''); IBR approved for § 111.105–27(b).

(3) NFPA 99, Health Care Facilities Code, 2018 Edition, ANSI-approved September 6, 2017, (''NFPA 99''); IBR approved for § 111.105–37.

(4) NFPA 496, Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2017 Edition, ANSI-approved June 2, 2016 (''NFPA 496 (2017)''); IBR approved for §§ 111.105–3(d); 111.106–3(c); 111.108–3(d).

(q) *UL,* Comm 2000, 151 Eastern Avenue, Bensenville, IL 60106; (888) 853–3512; *https://www.ul.com/customer-service*; *www.shopulstandards.com.*

(1) UL 44, Standard for Safety Thermoset-Insulated Wire and Cable, Nineteenth Edition, January 9, 2018 (''ANSI/UL 44''); IBR approved for § 111.60–11(c).

(2) UL 50, Standard for Safety Enclosures for Electrical Equipment, Non-Environmental Considerations, Thirteenth Edition, October 16, 2015 (''UL 50''); IBR approved for § 111.81–1(d).

(3) UL 62, Standard for Safety Flexible Cords and Cables, Twentieth Edition, July 6, 2018, (''ANSI/UL 62''); IBR approved for § 111.60–13(a).

(4) UL 83, Standard for Safety Thermoplastic-Insulated Wires and Cables, Sixteenth Edition, July 28, 2017 (''ANSI/UL 83''); IBR approved for § 111.60–11(c).

(5) UL 484, Standard for Safety Room Air Conditioners, Ninth Edition, February 7, 2014, (''ANSI/UL 484''); IBR approved for § 111.87–3(a).

(6) UL 489, Standard for Safety Molded-Case Circuit Breakers, Molded-Case Switches and Circuit-Breaker Enclosures, Thirteenth Edition, October 24, 2016 (''ANSI/UL 489''); IBR approved for §§ 111.01–15(c); 111.54–1(b).

(7) UL 514A, Standard for Safety Metallic Outlet Boxes, Eleventh Edition, February 1, 2013, (''ANSI/UL 514A''); IBR approved for § 111.81–1(d).

(8) UL 514B, Standard for Safety Conduit, Tubing, and Cable Fittings, Sixth Edition, revised November 21, 2014, (''ANSI/UL 514B''); IBR approved for § 111.81–1(d).

(9) UL 514C, Standard for Safety Nonmetallic Outlet Boxes, Flush-Device Boxes, and Covers, Fourth Edition, revised December 10, 2014, (''ANSI/UL 514C''); IBR approved for § 111.81–1(d).

(10) UL 674, Standard for Safety Electric Motors and Generators for Use in Hazardous (Classified) Locations, Fifth Edition, May 31, 2011 (''ANSI/UL 674''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(11) UL 823, Electric Heaters for Use in Hazardous (Classified) Locations, Ninth Edition, revised November 15, 2007, (''ANSI/UL 823''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(12) UL 844, Standard for Safety Luminaires for Use in Hazardous (Classified) Locations, Thirteenth Edition, June 29, 2012, (''ANSI/UL 844''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(13) UL 913, Standard for Safety Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, Eighth Edition, 2013, (''ANSI/UL 913''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(14) UL 1042, Standard for Safety Electric Baseboard Heating Equipment, Fifth Edition, revised September 9, 2014, (''ANSI/UL 1042''); IBR approved for § 111.87–3(a).

(15) UL 1072, Standard for Safety Medium-Voltage Power Cables, Fourth Edition, revised June 19, 2013, (''ANSI/UL 1072''); IBR approved for § 111.60–1(a).

(16) UL 1104, Standard for Safety for Marine Navigation Lights, Second Edition, October 29, 1998 (''ANSI/UL 1104''); IBR approved for § 111.75–17(d).

(17) UL 1203—Standard for Safety: Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, Fifth Edition, revised April 24, 2015, (''ANSI/UL 1203''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(18) UL 1309, Standard for Safety Marine Shipboard Cables, Third Edition, Apr. 21, 2017 (''ANSI/UL 1309''); IBR approved for §§ 111.60–1(a); 111.106–5(a).

(19) UL 1598, Standard for Safety Luminaires, Fourth Edition, August 28, 2018 (''ANSI/UL 1598''); IBR approved for § 111.75–20(b).

(20) UL 1598A, Standard for Safety Supplemental Requirements for Luminaires for Installation on Marine Vessels, First Edition (with revisions through April 17, 2015), December 4, 2000 (''ANSI/UL 1598A''); IBR approved for § 111.75–20(a) and (b).

(21) UL 2021, Standard for Safety Fixed and Location-Dedicated Electric Room Heaters, Fourth Edition, September 30, 2015 (''ANSI/UL 2021''); IBR approved for § 111.87–3(a).

(22) UL 2225, Standard for Safety Cables and Cable-Fittings for use in Hazardous (Classified) Locations, Fourth Edition, September 30, 2013 (''ANSI/UL 2225''); IBR approved for §§ 111.105–3(b); 111.106–3(b); 111.108–3(b).

(23) UL 2556, Standard for Safety Wire and Cable Test Methods, Fourth Edition, Dec. 15, 2015 (''ANSI/UL 2556''); IBR approved for §§ 111.30–19(b); 111.60–2; 111.60–6(a).

(24) UL 60079–18, Standard for Safety Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation ''m'', Fourth Edition, revised February 20, 2017, (''ANSI/UL 60079–18''); IBR approved for §§ 111.105–3(e); 111.106–3(d); 111.108–3(e).

■ 4. Amend § 110.15–1 by:

■ a. Revising paragraph (a);

■ b. In paragraph (b):

■ i. In the definition for ''Constructed'', redesignating paragraphs (1) and (2) as paragraphs (i) and (ii);

■ ii. Revising the definition for ''Corrosion resistant material or finish'';

■ iii. Removing the definition for ''Corrosive location'';

■ iv. Revising the definition for ''Dead ship condition'';

■ v. Adding, in alphabetical order, a definition for ''Drilling loads'';

■ vi. Removing the definition for ''Dripproof'';

■ vii. In the definition for ''IECEx System'', removing the text ''(incorporated'' and adding, in its place, the text ''(as incorporated'';
■ viii. Revising the definitions for ''Independent laboratory'', ''Location not requiring an exceptional degree of protection'';
■ ix. In the definition for ''Location requiring an exceptional degree of protection'', redesignating paragraphs (1) through (5) as paragraphs (i) through (v);
■ x. Revising the definitions for ''Non-hazardous'', ''Nonsparking fan'';
■ xi. Removing the definition for ''Ocean vessel'';
■ xii. Adding, in alphabetical order, a definition for ''Ship's service loads''; and
■ xiii. Revising the definition for ''Watertight''.

The revisions and additions read as follows:

**§ 110.15–1 Definitions**

* * * * *

(a) The electrical and electronic terms are defined in IEEE 100 or IEC 60092–101:2018 (both incorporated by reference; see § 110.10–1).

(b) * * *

*Corrosion resistant material* or *finish* means any material or finish that meets the testing requirements of ASTM B117 (incorporated by reference; see § 110.10–1) or test Kb in IEC 60068–2–52:2017.

*Dead ship condition* is where the entire machinery installation, including the power supply, is out of operation and that auxiliary services such as compressed air, starting current from batteries etc., for bringing the main propulsion into operation and for the restoration of the main power supply are not available.

*Drilling loads* means all loads associated exclusively with the drilling operation including power to the drill table, mud system, and positioning equipment.

* * * * *

*Independent laboratory* means a laboratory that is accepted by the Commandant under part 159 of this subchapter for the testing and listing or certification of electrical equipment.

* * * * *

*Location not requiring an exceptional degree of protection* means a location which is not exposed to the environmental conditions outlined in the definition for locations requiring exceptional degrees of protection. This location requires the degree of protection of § 111.01–9(c) or (d) of this subchapter. These locations include—

(i) An accommodation space;

(ii) A dry store room;

(iii) A passageway adjacent to quarters;

(iv) A water closet without a shower or bath;

(v) A radio, gyro and chart room; and

(vi) A location with similar environmental conditions.

* * * * *

*Non-hazardous location* means an area in which an explosive gas or dust atmosphere is not expected to be present in quantities that require special precautions for the construction, installation, and use of electrical equipment.

*Nonsparking fan* means nonsparking fan as defined in ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1), section 4–8–3/11.

* * * * *

*Ship's service loads* means the electrical equipment for all auxiliary services necessary for maintaining the vessel in a normal, operational and habitable condition. Ship's service loads include, but are not limited to, all safety, lighting, ventilation, navigational, communications, habitability, and propulsion auxiliary loads. Electrical propulsion motor, bow thruster motor, cargo transfer, drilling, cargo refrigeration for other than Class 5.2 organic peroxides and Class 4.1 self-reactive substances, and other industrial type loads are not included.

* * * * *

*Watertight* means enclosed so that equipment meets at least a NEMA 250 Type 4 or 4X or an IEC 60529:2013 IP 56 rating.

* * * * *

■ 5. Amend § 110.25–1 as follows:
■ a. Designate the note immediately preceding paragraph (a) as Note 1 to § 110.25–1 introductory text;
■ b. In paragraph (a)(5), remove the text ''interrupting capacity of circuit breakers'' and add, in its place, the text ''interrupting capacity of overcurrent devices'';
■ c. In paragraph (a)(6), remove the text ''Subpart 111.52'' and add, in its place, the text ''subpart 111.51 of part 111 of this subchapter'';
■ d. In paragraph (i) introductory text, remove the text ''part 111, subpart 111.105 is'' and add, in its place, the text ''subparts 111.105, 111.106, and 111.108 of part 111 of this subchapter are'';
■ e. Redesignate paragraphs (i)(1) through (6) as paragraphs (i)(2) through (i)(7), respectively;
■ f. Add new paragraph (i)(1);
■ g. In paragraph (j), remove the text ''§ 111.105–11 of this chapter'' and add, in its place, the text ''§§ 111.105–11 and 111.106–5(c) of this subchapter'';
■ h. Designate the note to paragraph (m) as note 2 to paragraph (m);
■ i. In newly-designated note 2 to paragraph (m), remove the word ''signalling'' and add, in its place, the word ''signaling'';
■ j. Designate the note to paragraph (n) as note 3 to paragraph (n);
■ k. In newly-designated note 3 to paragraph (n), remove the text ''UL, ANSI, or'' and add, in its place, the text ''ANSI, NFPA, or''
■ l. In paragraph (o), remove the text ''of this chapter'' and add, in its place, the text ''of this subchapter''; and
■ m. Remove paragraphs (p) and (q).

The addition reads as follows:

**§ 110.25–1 Plans and information required for new construction.**

* * * * *

(i) * * *

(1) Method of classification, Division or Zone, used to determine hazardous locations;

* * * * *

■ 6. Revise § 110.25–3 to read as follows:

**§ 110.25–3 Procedure for submitting plans.**

(a) The plans required by § 110.25–1 must be submitted to one of the following Coast Guard offices:

(1) The Commanding Officer, Marine Safety Center, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593–7403, or by mail to: Commanding Officer (MSC), Attn: Marine Safety Center, U.S. Coast Guard Stop 7430, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593–7430, or electronically to *MSC@uscg.mil.*

(2) The Officer in Charge, Marine Inspection at or nearest the place where the vessel is to be built.

(b) Three copies of each plan are required so that one can be returned to the submitter. If the submitter desires additional copies of approved plans, he should submit enough for the necessary distribution.

**Note 1 to § 110.25–3:** The Coast Guard and a Recognized Classification Society (RCS), IAW 46 CFR part 8, may coordinate plan review for vessels classed by the RCS to eliminate duplication of effort. An applicant for plan review of a vessel that is classed by an RCS should consult Commanding Officer, Marine Safety Center, to determine applicable procedures for submitting plans.

## PART 111—ELECTRIC SYSTEMS—GENERAL REQUIREMENTS

■ 7. The authority citation for part 111 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; DHS Delegation No. 00170.1, Revision No. 01.2. Section 111.05–20 and Subpart 111.106 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 8. Revise § 111.01–9 to read as follows:

**§ 111.01–9 Degrees of protection.**

(a) Interior electrical equipment exposed to dripping liquids or falling solid particles must be manufactured to at least NEMA 250 Type 2 or IEC 60529:2013 IP 22 (both incorporated by reference; see § 110.10–1 of this subchapter) degree of protection as appropriate for the service intended.

(b) Electrical equipment in locations requiring exceptional degrees of protection as defined in § 110.15–1 must be enclosed to meet at least the minimum degrees of protection in ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter), section 4–8–3, Table 2, or appropriate NEMA 250 type for the service intended. Each enclosure must be designed so that the total rated temperature of the equipment inside the enclosure is not exceeded.

(c) Central control consoles and similar control enclosures must be manufactured to at least NEMA 250 Type 2 or IEC 60529:2013 IP 22 degree of protection regardless of location.

(d) Equipment for interior locations not requiring exceptional degrees of protection must be manufactured to at least NEMA 250 Type 1 with dripshield or IEC 60529:2013 IP 11.

**§ 111.01–15 [Amended]**

■ 9. Amend § 111.01–15, in paragraph (c), by removing the text ''UL 489 (incorporated by reference, see 46 CFR 110.10–1)'' and adding, in its place, the text ''ANSI/UL 489 (incorporated by reference, see § 110.10–1 of this subchapter)''.

■ 10. Amend § 111.05–3 by revising paragraph (c) to read as follows:

**§ 111.05–3 Design, construction, and installation; general.**

* * * * *

(c) In a grounded distribution system, only grounded, three-prong appliances may be used. Adaptors that allow an ungrounded, two-prong appliance to fit into a grounded, three-prong, receptacle must not be used. This does not apply to double-insulated appliances or tools and low voltage appliances of 50 volts or less.

* * * * *

■ 11. Revise § 111.05–7 to read as follows:

**§ 111.05–7 Armored and metallic sheathed cable.**

When installed, the metallic armor or sheath must meet the installation requirements of Section 6 of IEEE 45.8–2016 (incorporated by reference; see § 110.10–1 of this subchapter).

■ 12. Revise § 111.05–9 to read as follows:

**§ 111.05–9 Masts.**

Each nonmetallic mast and topmast must have a lightning-ground conductor in accordance with section 10 of IEC 60092–401:1980 (incorporated by reference; see § 110.10–1 of this subchapter).

**§ 111.05–33 [Amended]**

■ 13. Amend § 111.05–33 as follows:

■ a. Remove the text ''NEC 2002'' wherever it appears and add, in its place, the text ''70''; and

■ b. Remove the text ''46 CFR 110.10–1'' and add, in its place, the text ''§ 110.10–1 of this subchapter''.

**§ 111.10–1 [Removed and Reserved]**

■ 14. Remove and reserve § 111.10–1.

■ 15. Amend § 111.10–9 by adding a sentence at the end of the note to § 111.10–9 to read as follows:

**§ 111.10–9 Ship's service supply transformers; two required.**

* * * * *

**Note to § 111.10–9:** * * * It is not the intent, nor is it required, that transformers fed by the ship's service switchboard, such as 480/120 transformers, be duplicated.

■ 16. Revise § 111.12–1 to read as follows:

**§ 111.12–1 Prime movers.**

Prime movers must meet § 58.01–5 and subpart 58.10 of this chapter except that those for mobile offshore drilling units must meet 6–1–3/3.3 and 6–1–3/3.5 of the ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter). Further requirements for emergency generator prime movers are in subpart 112.50 of this subchapter.

■ 17. Revise § 111.12–3 to read as follows:

**§ 111.12–3 Excitation.**

In general, excitation must meet sections 4–8–3/3.13.2(a), 4–8–5/5.5.1, 4–8–5/5.5.2, and 4–8–5/5.17.5(e) of the ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter), except that those for mobile offshore drilling units must meet sections 6–1–7/5.17.1 and 6–1–7/5.19.1 of the ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter). In particular, no static exciter may be used for excitation of an emergency generator unless it is provided with a permanent magnet or a residual-magnetism-type exciter that has the capability of voltage build-up after two months of no operation.

■ 18. Revise § 111.12–5 to read as follows:

**§ 111.12–5 Construction and testing of generators.**

Each generator must meet the applicable requirements for construction and testing in section 4–8–3 of the ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter) except that each one for a mobile offshore drilling unit must meet the requirements in section 6–1–7 of the ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter).

■ 19. Revise § 111.12–7 to read as follows:

**§ 111.12–7 Voltage regulation and parallel operation.**

(a) *For AC systems:* sections 4–2–3/7.5.2, 4–2–4/7.5.2, 4–8–3/3.13.2, and 4–8–3/3.13.3 of the ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter); and

(b) *For DC systems:* section 4–8–3/3.13.3(c) of the ABS Marine Vessel Rules, and IEC 60092–202:2016 and IEC 60092–301:1980 (both incorporated by reference; see § 110.10–1 of this subchapter); and

(c) *For mobile offshore drilling units:* sections 6–1–7/5.17.2, 6–1–7/5.17.3, 6–1–7/5.19.2, and 6–1–7/5.19.3 of the ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter).

■ 20. Amend § 111.12–11 by revising paragraph (g) to read as follows:

**§ 111.12–11 Generator protection.**

* * * * *

(g) Location. A ship's service generator overcurrent protective device must be on the ship's service generator switchboard. The generator and its switchboard must be in the same space. For the purposes of this section, the following are not considered separate from the machinery space:

(1) A control room that is inside of the machinery casing; and

(2) A dedicated switch-gear and semiconductor converter compartment on a mobile offshore drilling unit that is separate from but directly adjacent to and on the same level as the generator room.

* * * * *

**§ 111.12–13 [Removed]**

■ 21. Remove § 111.12–13.

■ 22. Amend § 111.15–2 by revising paragraph (b) to read as follows:

**§ 111.15–2 Battery construction.**

* * * * *

(b) Each fully charged lead-acid battery must have a specific gravity that meets Section 11 of IEEE 45.1–2017 (incorporated by reference; see § 110.10–1 of this subchapter).

* * * * *

**§ 111.15–3 [Amended]**

■ 23. Amend § 115.15–3 by removing the text ''kw'' wherever it appears in paragraphs (a)(1) through (3) and adding, in its place, the text ''kW''.

**§ 111.15–10 [Amended]**

■ 24. Amend § 111.15–10, in paragraph (b)(2)(i), after the text ''Group B'', by adding the text ''or its IEC equivalent designation of Zone 1, IIB + H2''.

**§ 111.15–25 [Amended]**

■ 25. Amend § 115.15–25, in paragraph (b), by removing the word ''rectifier'' and adding, in its place, the word ''converter''.

**§ 111.15–30 [Amended]**

■ 26. Amend § 115.15–30 by removing the text ''rectifiers,'' and adding, in its place, the text ''converters,''.

■ 27. Revise § 111.20–15 to read as follows:

**§ 111.20–15 Protection of transformers against overcurrent.**

Each transformer must have protection against overcurrent that meets Article 450 of NFPA 70 or IEC 60092–303:1980 (both incorporated by reference; see § 110.10–1 of this subchapter).

**§ 111.25–5 [Removed and Reserved]**

■ 28. Remove and reserve § 111.25–5.

■ 29. Revise § 111.30–1 to read as follows:

**§ 111.30–1 Location and installation.**

Each switchboard must meet the location and installation requirements in section 5.3 of IEEE 45.7–2012 or IEC 60092–302:1997 (both incorporated by reference; see § 110.10–1 of this subchapter), as applicable.

■ 30. Revise § 111.30–5 to read as follows:

**§ 111.30–5 Construction.**

(a) All low voltage and medium voltage switchboards (as low and medium are determined within the standard used) must meet—

(1) For low voltages, either section 6 (except section 6.3.3) of IEEE 45.7–2012 or of IEC 60092–302:1997 (both incorporated by reference; see § 110.10–1 of this subchapter), as appropriate.

(2) For medium voltages, either section 7 of IEEE 45.7–2012 or IEC 60092–503:2007 (incorporated by reference; see § 110.10–1 of this subchapter), as appropriate.

(b) Each switchboard must be fitted with a dripshield unless the switchboard is a deck-to-overhead mounted type which cannot be subjected to leaks or falling objects.

■ 31. Amend § 111.30–19 by revising paragraphs (a)(1) and (2) and (b)(4) to read as follows:

**§ 111.30–19 Buses and wiring.**

(a) * * *

(1) Section 5.10 of IEEE 45.7–2012 (incorporated by reference; see § 110.10–1 of this subchapter); or

(2) IEC 60092–302:1997 (clause 7) (incorporated by reference; see § 110.10–1 of this subchapter).

(b) * * *

(4) Flame-retardant meeting test VW–1 of ANSI/UL 2556 or IEC 60332–1–1:2015 and IEC 60332–1–2:2015 (all incorporated by reference; see § 110.10–1 of this subchapter); and

* * * * *

**§ 111.30–24 [Amended]**

■ 32. Amend § 115.30–24 by removing the text ''kw'' in the section heading and adding, in its place, the text ''kW''.

**§ 111.30–25 [Amended]**

■ 33. Amend 111.30–25 as follows:

■ a. In paragraph (b)(3), remove the text ''A pilot lamp'' and add, in its place, the text ''An indicator light'';

■ b. In paragraph (d)(2), remove the text ''An indicating'' and add, in its place, the text ''A'';

■ c. In paragraph (e)(1), remove the text ''Subpart'' and add, in its place, the text ''subpart'';

■ d. In paragraph (f)(2), remove the text ''A pilot'' and add, in its place, the text ''An indicator''; and

■ e. In paragraph (g) introductory text, remove the text ''paragraphs (b)(1), (b)(2), and (f)(1)'' and add, in its place, the text ''paragraphs (b)(1) and (2) and (f)(1) of this section''.

**§ 111.30–27 [Amended]**

■ 34. Amend § 111.30–27 as follows:

■ a. In paragraph (b)(4), remove the text ''A pilot lamp'' and add, in its place, the text ''An indicator light''; and

■ b. In paragraph (e) introductory text, remove the text ''Subpart'' and add, in its place, the text ''subpart''.

■ 35. Amend § 111.30–29 by:

■ a. Removing paragraph (d);

■ b. Redesignating paragraphs (e) through (h) as paragraphs (d) through (g) respectively; and

■ c. Revising newly-redesignated paragraph (d).

The revision reads as follows:

**§ 111.30–29 Emergency switchboards.**

* * * * *

(d) Each switchboard of an alternating-current emergency generator must have:

(1) A circuit breaker that meets § 111.12–11;

(2) A disconnect switch or link for each emergency generator conductor, except for a switchboard with a draw out or plug-in type generator circuit breaker that disconnects:

(i) Each generator conductor; and

(ii) If there is a switch in the generator neutral, each ungrounded conductor; and

(3) An indicator light connected between the generator and circuit breaker.

* * * * *

■ 36. Revise the heading of subpart 111.33 to read as follows:

## Subpart 111.33—Power Semiconductor Converter Systems

**§ 111.33–1 [Amended]**

■ 37. Amend § 111.33–1 by removing the word ''rectifier'' and adding, in its place, the word ''converter''.

**§ 111.33–3 [Amended]**

■ 38. Amend § 111.33–3 as follows:

■ a. In paragraph (a) introductory text, remove the word ''rectifier'' and add, in its place, the word ''converter'';

■ b. In paragraph (a)(1), remove the text ''10.20.12 of IEEE 45–2002'' and add, in its place, the text ''4.31.19.12 of IEEE 45.2–2011'';

■ c. In paragraph (a)(2), remove the text ''60092–304'' and add, in its place, the text ''60092–304:1980''; and

■ d. In paragraph (c), remove the word ''rectifiers'' and add, in its place, the word ''converters''.

■ 39. Revise § 111.33–5 to read as follows:

**§ 111.33–5 Installation.**

Each semiconductor converter system must meet the installation requirements, as appropriate, of—

(a) Sections 4.31.19.2, 4.31.19.7, and 4.31.19.8 of IEEE 45.2–2011 (incorporated by reference; see § 110.10–1 of this subchapter); or

(b) IEC 60092–304:1980 (incorporated by reference; see § 110.10–1 of this subchapter).

**§ 111.33–7 [Amended]**

■ 40. Amend § 111.33–7 by removing the word ''rectifier'' and adding, in its place, the word ''converter''.

**§ 111.33–9 [Amended]**

■ 41. Amend § 111.33–9 by removing the word ''rectifier'' and adding, in its place, the word ''converter''.

■ 42. Revise § 111.33–11 to read as follows:

**§ 111.33–11 Propulsion systems.**

Each power semiconductor converter system in a propulsion system must meet sections 4–8–5/5.17.8 and 4–8–5/5.17.9 of ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter), except that each one for mobile offshore drilling units must meet the requirements in section 6–1–7/12 of ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter).

■ 43. Revise § 111.35–1 to read as follows:

**§ 111.35–1 Electrical propulsion installations.**

Each electric propulsion installation must meet Sections 4–8–5/5.5, 4–8–5/5.11, 4–8–5/5.13, 4–8–5/5.17.7(e), 4–8–5/5.17.8, and 4–8–5/5.17.9 of ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter), except that each one for mobile offshore drilling units must meet the requirements in section 6–1–7/12 of ABS MOU Rules (incorporated by reference; see § 110.10–1 of this subchapter).

■ 44. Revise § 111.40–1 to read as follows:

**§ 111.40–1 Panelboard standard.**

Each panelboard must meet Section 9.10.1 of IEEE 45.1–2017 (incorporated by reference; see § 110.10–1 of this subchapter).

**§ 111.50–1 [Amended]**

■ 45. Amend § 111.50–1 by:

■ a. In the introductory text, removing words ''of this chapter'';

■ b. In paragraphs (a) through (d), removing the word ''Subpart'' and adding, in its place, the word ''subpart''.

**§ 111.50–3 [Amended]**

■ 46. Amend § 115.50–3 as follows:

■ a. In paragraph (b) introductory text, remove the text ''of this chapter'';

■ b. In paragraphs (b)(1), (3), (4), and (5) remove the word ''Subpart'' and add, in its place, the word ''subpart'';

■ c. In paragraph (b)(2), remove the text ''subchapter F'' and add, in its place, the text ''subpart 58.25'';

■ c. In paragraph (c) introductory text remove the text ''NEC 2002'' and add. in its place. the text ''70'', and remove the text ''or IEC 60092–202'' and ''both'';

■ d. In paragraphs (c) introductory text and (c)(2), remove the word ''circuitbreakers'' wherever it appears and add. in its place, the words ''circuit breakers'';

■ e. In paragraphs (e) and (g)(2):

■ i. remove the text ''NEC 2002'' and add, in its place, the text ''70''; and

■ ii. remove the text ''60092–202'' and add, in its place, the text ''60092–202:2016 (both incorporated by reference; see § 110.10–1 of this subchapter)''.

**§ 111.50–5 [Amended]**

■ 47. Amend § 111.50–5 as follows:

■ a. In paragraph (a)(2), remove the text ''§ 111.30–25'' and add, in its place, the text ''§ 111.30–25(f)''; and

■ b. In paragraph (a)(4), remove the text ''single phase'' and ''(two wire with single voltage secondary)''.

**§ 111.50–7 [Amended]**

■ 48. Amend § 115.50–7(a) as follows:

■ a. Remove the text ''NEC 2002'' and add, in its place, the text ''70''; and

■ b. Remove the text ''46 CFR 110.10–1'' and add, in its place, the text ''§ 110.10–1 of this subchapter''.

**§ 111.50–9 [Amended]**

■ 49. Amend § 111.50–9 as follows:

■ a. Remove the text ''NEC 2002'' and add, in its place, the text ''70''; and

■ b. Remove the text ''46 CFR 110.10–1'' and add, in its place, the text ''§ 110.10–1 of this subchapter''.

■ 50. Revise subpart 111.51 to read as follows:

**Subpart 111.51—Calculation of Short-Circuit Currents and Coordination of Overcurrent Protective Devices**

Sec.

111.51–1 General.
111.51–2 Short circuit calculations.
111.51–3 Short circuit calculations for systems below 1500 kilowatts.
111.51–4 Short circuit calculations for systems 1500 kilowatts or above.
111.51–5 Protection of vital equipment.

## Subpart 111.51—Calculation of Short-Circuit Currents and Coordination of Overcurrent Protective Devices

**§ 111.51–1 General.**

Electrical installations must be protected against short circuits, by appropriate devices. The selection, arrangement and performance of various protective devices must provide coordinated automatic protection and selective operation in order to provide continuity of service for equipment vital to the propulsion, control, or safety of the vessel under short-circuit conditions through coordination and selective operation of overcurrent protective devices.

**§ 111.51–2 Short-circuit calculations.**

(a) The available short-circuit current must be computed—

(1) From the aggregate contribution of all generators that can simultaneously operate in parallel;

(2) From the largest probable motor load; and

(3) With a three-phase fault on the load terminals of the protective device.

(b) The calculated currents must be used to select suitably rated equipment and to allow the selection and setting of protective devices.

**§ 111.51–3 Short-circuit calculations for systems below 1500 kilowatts.**

The following short-circuit assumptions must be made for a system with an aggregate generating capacity below 1500 kilowatts, unless detailed computations in accordance with § 111.51–4 are submitted:

(a) The maximum short-circuit current of a direct current system must be assumed to be 10 times the aggregate normal rated generator currents plus 6 times the aggregate normal rated currents of all motors that may be in operation.

(b) The maximum asymmetrical short-circuit current for an alternating current system must be assumed to be 10 times the aggregate normal rated generator currents plus 4 times the aggregate normal rated currents of all motors that may be in operation.

(c) The average asymmetrical short circuit current for an alternating-current system must be assumed to be 8½ times the aggregate normal rated generator currents plus 3½ times the aggregate normal rated currents of all motors that may be in operation.

**§ 111.51–4 Short-circuit calculations for systems 1500 kilowatts or above.**

Short-circuit calculations must be submitted for systems with an aggregate generating capacity of 1500 kilowatts or more by utilizing one of the following methods:

(a) Exact calculations using actual impedance and reactance values of system components.

(b) Estimated calculations using IEC 61363–1:1998 for AC systems and IEC 61660–1:1997 for DC systems (both incorporated by reference; see § 110.10–1 of this subchapter).

(c) The estimated calculations using a commercially established analysis procedure for utility or industrial applications.

**§ 111.51–5 Protection of vital equipment.**

(a) The coordination of overcurrent protective devices must be demonstrated for all potential plant configurations.

(b) Protective relays and overcurrent protective devices must be installed so that:

(1) A short-circuit on a circuit that is not vital to the propulsion, control, or safety of the vessel does not trip equipment that is vital; and

(2) A short-circuit on a circuit that is vital to the propulsion, control, or safety of the vessel is cleared only by the protective device that is closest to the point of the short-circuit.

## Subpart 111.52 [Removed and Reserved]

■ 51. Remove and reserve subpart 111.52, consisting of §§ 111.52–1, 111.52–3, and 111.52–5.

■ 52. Amend § 111.53–1 by revising paragraph (a)(1) and removing paragraph (a)(3) to read as follows:

**§ 111.53–1 General.**

(a) * * *

(1) Meet the general provisions of Article 240 of NFPA 70 or IEC 60092–202:2016 (both incorporated by reference; see ''§ 110.10–1 of this subchapter) as appropriate.

* * * * *

■ 53. Revise § 111.54–1 to read as follows:

**§ 111.54–1 Circuit breakers.**

(a) Each circuit breaker must—

(1) Meet the general provision of Article 240 of NFPA 70 or IEC 60092–202:2016 (both incorporated by reference; see § 110.10–1 of this subchapter) as appropriate;

(2) Meet subpart 111.55; and

(3) Have an interrupting rating sufficient to interrupt the maximum asymmetrical short-circuit current available at the point of application.

(b) No molded-case circuit breaker may be used in any circuit having a nominal voltage of more than 600 volts (1,000 volts for a circuit containing a circuit breaker manufactured to the standards of the IEC). Each molded-case circuit breaker must meet section 9 and marine supplement SA of ANSI/UL 489 or IEC 60947–2:2019 (both incorporated by reference; see § 110.10–1 of this subchapter), except as noted in paragraph (e) of this section.

(c) Each circuit breaker, other than a molded-case one, that is for use in any of the following systems must meet the following requirements:

(1) An alternating-current system having a nominal voltage of 600 volts or less (1,000 volts for such a system with circuit breakers manufactured to the standards of the IEC) must meet (all incorporated by reference; see § 110.10–1 of this subchapter):

(i) IEEE C37.13;

(ii) IEEE C37.27; or

(iii) IEC 60947–2:2019.

(2) A direct-current system of 3,000 volts or less (1,500 volts or less for such a system with circuit breakers manufactured to the standards of the IEC) must meet IEEE C37.14 or IEC 60947–2:2019 (both incorporated by reference; see § 110.10–1 of this subchapter).

(3) An alternating-current system having a nominal voltage greater than 600 volts (or greater than 1,000 volts for IEC standard circuit breakers) must meet (all incorporated by reference; see § 110.10–1 of this subchapter):

(i) IEEE C37.04, IEEE C37.010, and IEEE C37.12; or

(ii) IEC 62271–100:2017.

(d) A circuit breaker must not:

(1) Be dependent upon mechanical cooling to operate within its rating; or

(2) Have a long-time-delay trip element set above the continuous current rating of the trip element or of the circuit breaker frame.

(e) Each circuit breaker located in an engineroom, boilerroom, or machinery space must be calibrated for a 50 degree C ambient temperature. If the circuit breaker is in an environmentally controlled machinery control room where provisions are made for ensuring an ambient temperature of 40 degree C or less, a circuit breaker must have at least the standard 40 degrees C ambient temperature calibration.

**§ 111.55–1 [Amended]**

■ 54. Revise § 111.55–1(a) to read as follows:

**§ 111.55–1 General.**

(a) Each switch must meet Article 404 of NFPA 70 (incorporated by reference; see ''§ 110.10–1 of this subchapter).

* * * * *

**§ 111.59–1 [Amended]**

■ 55. Amend § 111.59–1, in paragraph (a), by removing the text ''NEC 2002 (incorporated by reference see 46 CFR 110.10–1)'' and adding, in its place, the text ''70 or IEC 61439–6:2012 (incorporated by reference; see § 110.10–1 of this subchapter)''.

■ 56. Revise § 111.60–1 to read as follows:

**§ 111.60–1 Construction and testing of cable.**

(a) Electric cables constructed of stranded copper conductors, thermoplastic, elastomeric or other insulation, moisture-resistant jackets, and, where applicable, armoring and outer-sheathing must meet all the requirements of IEC 60092–350:2014, 60092–352:2005, 60092–353:2016, 60092–354:2014, 60092–360:2014, IEC/TR 60092–370:2009, 60092–376:2017, IEEE 1580, ANSI/UL 1072, ANSI/UL 1309, or MIL–DTL–24640C or MIL–DTL–24643C (all incorporated by reference; see § 110.10–1 of this subchapter), including the respective flammability tests contained therein.

(b) IEC 60092 series cable must meet the Category A or A F/R flammability requirements of IEC 60332–3–22:2009 or 60332–3–21:2000 (both incorporated by reference; see § 110.10–1 of this subchapter).

**§ 111.60–2 [Amended]**

■ 57. Amend § 111.60–2 introductory text by removing the text ''VW–1 of UL 1581, or Category A of IEC 60332–3–22 (all three standards incorporated by reference; see 46 CFR 110.10–1)'' and adding, in its place, the text ''FV–2/VW–1 of ANSI/UL 2556, IEC 60332–3–21:2018, or IEC 60332–3–22:2018 (all incorporated by reference; see § 110.10–1 of this subchapter)''.

**§ 111.60–3 [Removed and Reserved]**

■ 58. Remove and reserve § 111.60–3.

**§ 111.60–4 [Amended]**

■ 59. Amend § 111.60–4 by removing ''#'' wherever it appears.

■ 60. Amend § 111.60–5 by revising paragraphs (a) and (b) to read as follows:

**§ 111.60–5 Cable installation.**

(a) Each cable installation must meet—

(1) Sections 6, of IEEE 45.8–2016 (incorporated by reference; see § 110.10–1 of this subchapter); or

(2) Cables manufactured to IEC 60092–353:2016 must be installed in accordance with IEC 60092–352:2005 (both incorporated by reference; see § 110.10–1 of this subchapter), including clause 8.

(b) Each cable installation made in accordance with clause 8 of IEC 60092–352:2005 must utilize the conductor ampacity values of Table I of IEC 60092–352:2005.

* * * * *

■ 61. Revise § 111.60–6(a) to read as follows:

**§ 111.60–6 Fiber optic cable.**

* * * * *

(a) Be constructed to pass the flammability test contained in IEEE 1202, test FV–2/VW–1 of UL 2556, or

IEC 60332–3–22:2018 (all three standards incorporated by reference; see 46 CFR 110.10–1); or

* * * * *

■ 62. Amend § 111.60–7 by revising table 111.60–7 to read as follows:

**§ 111.60–7 Demand loads.**

* * * * *

TABLE 1 TO § 111.60–7—DEMAND LOADS

| Type of circuit | Demand load |
|---|---|
| Generator Cables | 115 percent of continuous generator rating. |
| Switchboard bus-ties, except ship's service to emergency switchboard bus-ties. | 75 percent of generating capacity of the larger switchboard. |
| Emergency switchboard bus-ties | 115 percent of continuous rating of emergency generator. |
| Motor feeders | Article 430 of NFPA 70 (incorporated by reference; see § 110.10–1 of this subchapter). |
| Galley equipment feeders | 100 percent of either the first 50 kW or one-half the connected load, whichever is the larger, plus 65 percent of the remaining connected load, plus 50 percent of the rating of the spare switches or circuit breakers on the distribution panel. |
| Lighting feeders | 100 percent of the connected load plus the average active circuit load for the spare switches or circuit breakers on the distribution panels. |
| Grounded neutral of a dual voltage feeders. | 100 percent of the capacity of the ungrounded conductors when grounded neutral is not protected by a circuit breaker overcurrent trip, or not less than 50 percent of the capacity of the ungrounded conductors when the grounded neutral is protected by a circuit breaker overcurrent trip or overcurrent alarm. |

■ 63. Amend § 111.60–11 by revising paragraph (c) to read as follows:

**§ 111.60–11 Wire.**

* * * * *

(c) Wire, other than in switchboards, must meet the requirements in ANSI/UL 44, ANSI/UL 83, MIL–DTL–76E (all three standards incorporated by reference; see § 110.10–1 of this subchapter), or equivalent standard.

* * * * *

■ 64. Amend § 111.60–13 by revising paragraphs (a) through (e) to read as follows:

**§ 111.60–13 Flexible electric cord and cables.**

(a) *Construction and testing.* Each flexible cord and cable must meet the requirements in Sections 4.4.2. and 4.4.6 of IEEE 45.8–2016, Article 400 of NFPA 70, ANSI/NEMA WC–70, or ANSI/UL 62 (all incorporated by reference; see § 110.10–1 of this subchapter).

(b) *Application.* No flexible cord may be used except:

(1) As allowed under Sections 400.10 and 400.12 of NFPA 70; and

(2) In accordance with Table 400.4 in NFPA 70.

(c) *Allowable current-carrying capacity.* No flexible cord may carry more current than allowed under Table 400.5 in NFPA 70, or ANSI/NEMA WC–70.

(d) *Conductor size.* Each flexible cord must be 18 AWG (0.82 mm2) or larger.

(e) *Splices.* Each flexible cord and cable must be without splices or taps except for a cord or cable 12 AWG (3.3 mm2) or larger spliced for repairs in accordance with § 111.60–19.

* * * * *

■ 65. Amend § 111.60–19 by revising paragraph (b) to read as follows:

**§ 111.60–19 Cable splices.**

* * * * *

(b) Each cable splice must be made in accordance with Section 6.11 of IEEE 45.8–2016 (incorporated by reference; see § 110.10–1 of this subchapter).

■ 66. Revise § 111.60–21 to read as follows:

**§ 111.60–21 Cable insulation tests.**

All cable for electric power and lighting and associated equipment must be checked for proper insulation resistance to ground and between conductors. The insulation resistance must not be less than that in Section 5.1 of IEEE 45.6–2016 (incorporated by reference; see § 110.10–1 of this subchapter).

■ 67. Amend § 111.60–23 by revising paragraphs (d) and (f) to read as follows:

**§ 111.60–23 Metal-clad (Type MC) cable.**

* * * * *

(d) The cable must be installed in accordance with Article 326 of NFPA 70 (incorporated by reference; see § 110.10–1 of this subchapter).

* * * * *

(f) Equipment grounding conductors in the cable must be sized in accordance with Section 250.122 of NFPA 70. System grounding conductors must be of a cross-sectional area not less than that of the normal current carrying conductors of the cable. The metal sheath must be grounded but must not be used as a required grounding conductor.

* * * * *

■ 68. Amend § 111.70–1 by revising paragraph (a) introductory text to read as follows:

**§ 111.70–1 General.**

(a) Each motor circuit, controller, and protection must meet the requirements of sections 4–8–2/9.17, 4–8–4/9.5 and 4–8–3/5 of ABS Marine Vessel Rules; sections 6–1–7/9.9 and 6–1–7/9.15 of the ABS MOU Rules; or IEC 60092–301:1980 (all three standards incorporated by reference; see 46 CFR 110.10–1), as appropriate, except for the following circuits:

* * * * *

■ 69. Amend § 111.70–3 by revising paragraph (a) to read as follows:

**§ 111.70–3 Motor controllers and motor-control centers.**

(a) *General.* The enclosure for each motor controller or motor-control center must meet either NEMA ICS 2 and NEMA ICS 2.3, or Table 1 of IEC 60092–201:2019 (all incorporated by reference; see § 110.10–1 of this subchapter), as appropriate, for the location where it is installed. In addition, each such enclosure in a hazardous location must meet the requirements of subpart 111.105 of this part. NEMA ICS 2.4 (incorporated by reference; see § 110.10–1 of this subchapter) provides guidance on the differences between devices meeting NEMA and those meeting IEC for motor service.

* * * * *

■ 70. Amend § 111.75–5 by revising paragraph (b) to read as follows:

**§ 111.75–5 Lighting Branch Circuits.**

* * * * *

(b) *Connected load.* The connected loads on a lighting branch circuit must

not be more than 80 percent of the rating of the overcurrent protective device, computed on the basis of the fixture ratings and in accordance with Section 9.4.2 of IEEE 45.1–2017 (incorporated by reference; see § 110.10–1 of this subchapter).

* * * * *

■ 71. Amend § 111.75–17 by:

■ a. Removing paragraph (e); and

■ b. Revising paragraph (d)(2).

The revision reads as follows:

**§ 111.75–17 Navigation lights.**

* * * * *

(d) * * *

(2) Be certified by an independent laboratory to the requirements of ANSI/UL 1104 or EN 14744 (incorporated by reference; see § 110.10–1 of this subchapter) or an equivalent standard under § 110.20–1 of this subchapter. Portable battery powered navigation lights need only be certified to the requirements of ANSI/UL 1104 applicable to those lights.

* * * * *

■ 72. Revise § 111.75–18 to read as follows:

**§ 111.75–18 Signaling lights.**

Each self-propelled vessel over 150 gross tons when engaged on an international voyage must have on board an approved daylight signaling lamp that meets ISO 25861 (incorporated by reference, see § 110.10–1 of this subchapter).

■ 73. Revise § 111.75–20 to read as follows:

**§ 111.75–20 Luminaries (lighting fixtures).**

(a) The construction of each luminaire (lighting fixture) for a non-hazardous location must meet ANSI/UL 1598A, or IEC 60092–306:2009 (both incorporated by reference; see § 110.10–1 of this subchapter).

(b) Nonemergency and inside-type decorative luminaires in environmentally protected, nonhazardous locations must meet the applicable luminaire-type requirements of ANSI/UL 1598 or IEC 60092–306:2009 (both incorporated by reference; see § 110.10–1 of this subchapter). These luminaires must also meet Clauses 7.4, 8.1, 8.3, 11.2, 13.4, and 17.2 of ANSI/UL 1598A (incorporated by reference; see § 110.10–1 of this subchapter), except in an accommodation space, navigating bridge, gyro room, radio room, galley, or similar space where it is not subject to damage.

(c) Each tablelamp, desklamp, floorlamp, and similar equipment must be secured in place so that it cannot be displaced by the roll or pitch of the vessel.

**§ 111.77–3 [Amended]**

■ 74. Amend § 111.77–3 by removing the text ''UL'' and adding, in its place, the text ''ANSI/UL''.

■ 75. Amend § 111.81–1 by revising paragraph (d) to read as follows:

**§ 111.81–1 Outlet boxes and junction boxes; general.**

* * * * *

(d) As appropriate, each outlet-box or junction-box installation must meet the following standards (all incorporated by reference, see § 110.10–1 of this subchapter): Article 314 of NFPA 70; ANSI/UL 50; ANSI/UL 514A, ANSI/UL 514B, and ANSI/UL 514C; IEC 60092–101:2018; IEC 60092–201:2019; IEC 60092–306:2009; IEC 60092–352:2005; IEC 60092–401:1980; and IEC 60092–502:1999.

* * * * *

■ 76. Add § 111.83–7 to subpart 111.83 to read as follows:

**§ 111.83–7 High voltage shore connection.**

Ships connecting to shore power and receiving high voltage shore power (over 1000 volts) should meet the requirements of IEC/IEEE 80005–1:2019 (incorporated by reference; see § 110.10–1 of this subchapter).

■ 77. Amend § 111.87–3 by revising paragraph (a) to read as follows:

**§ 111.87–3 General requirements.**

(a) Each electric heater must meet applicable ANSI/UL 484, ANSI/UL 1042, or ANSI/UL 2021 construction standards (all incorporated by reference; see § 110.10–1 of this subchapter) or equivalent standards under § 110.20–1 of this subchapter.

* * * * *

**§ 111.95–1 [Amended]**

■ 78. Amend § 111.95–1, in paragraph (b), by removing the text ''in other parts of this chapter under which vessels are certificated and''.

**§ 111.99–3 [Removed and Reserved]**

■ 79. Remove and reserve § 111.99–3.

**§ 111.99–5 [Amended]**

■ 80. Amend § 111.99–5 by removing the text ''II 2/30.4.3'' and adding, in its place, the text ''II–2/9.4.1.1.5.3''.

■ 81. Amend § 111.103–1 by revising the introductory text to read as follows:

**§ 111.103–1 Power ventilation systems except machinery space ventilation systems.**

Each power ventilation system that is not a machinery space ventilation system must have:

* * * * *

■ 82. Amend § 111.103–3 by revising paragraph (a) to read as follows:

**§ 111.103–3 Machinery space ventilation.**

(a) Each power ventilation system for a machinery space must have two controls to stop the ventilation, one of which may be the supply circuit breaker.

* * * * *

■ 83. Amend § 111.103–7 by revising the introductory text to read as follows:

**§ 111.103–7 Ventilation stop stations.**

Each power ventilation system stop station must:

* * * * *

■ 84. Revise § 111.105–1 to read as follows:

**§ 111.105–1 Applicability.**

This subpart applies to installations in hazardous locations as defined in Articles 500 through 505 of NFPA 70, Clause 6 of IEC 60092–502:1999 or Clause 8 of IEC 61892–7:2019 (all incorporated by reference; see § 110.10–1 of this subchapter).

■ 85. Revise § 111.105–3 to read as follows:

**§ 111.105–3 Approved equipment.**

(a) Electrical equipment should not be installed in hazardous locations unless essential for operational purposes. When installed in these locations, special precautions should be taken to ensure that the electrical equipment is not a source of ignition.

(b) Electrical installations in hazardous locations must comply with paragraph (b)(1), (2), or (3) of this section.

(1) NFPA 70 Articles 500 through 504 (incorporated by reference, see § 110.10–1 of this subchapter). Equipment required to be identified for Class I locations must meet the provisions of Sections 500.7 and 500.8 of NFPA 70 and must be tested and listed by an independent laboratory to any of the following standards:

(i) ANSI/UL 674, ANSI/UL 823, ANSI/UL 844, ANSI/UL 913, ANSI/UL 1203, ANSI/ISA 12.12.01, or ANSI/UL 2225 (all incorporated by reference, see § 110.10–1 of this subchapter).

(ii) FM Approvals Class Number 3600 (1998), Class Number 3610, Class Number 3611, Class Number 3615, or Class Number 3620 (incorporated by

reference, see § 110.10–1 of this subchapter).

(iii) CSA C22.2 Nos. 0–10, 30–M1986, 157–92, or 213–16 (incorporated by reference, see § 110.10–1 of this subchapter).

**Note 1 to paragraph (b)(1):** See Article 501.5 of NFPA 70 (incorporated by reference, see § 110.10–1) for use of Zone equipment in Division designated spaces.

(2) NFPA 70 Article 505 (incorporated by reference, see § 110.10–1 of this subchapter). Equipment required to be identified for Class I locations must meet the provisions of Sections 505.7 and 505.9 of NFPA 70 and must be tested and listed by an independent laboratory to one or more of the types of protection in ANSI/ISA or ANSI/UL series of standards incorporated in NFPA 70.

**Note 2 to paragraph (b)(2):** See Article 505.9(C)(1) of NFPA 70 (incorporated by reference, see § 110.10–1 of this subchapter) for use of Division equipment in Zone designated spaces.

(3) Clause 8 of IEC 61892–7:2019 or clause 6 of IEC 60092–502:1999 (both incorporated by reference, see § 110.10–1 of this subchapter). Electrical apparatus in hazardous locations must be tested to IEC 60079–1:2014, IEC 60079–2:2014, IEC 60079–5:2015, IEC 60079–6:2015, IEC 60079–7:2015, IEC 60079–11:2011, IEC 60079–13:2017, IEC 60079–15:2017, IEC 60079–18:2017, IEC 60079–25:2010 or IEC 60079–30–1:2007 (incorporated by reference, see § 110.10–1) and certified by an independent laboratory under the IECEx System.

(c) System components that are listed or certified under paragraph (b)(1), (2), or (3) of this section must not be combined in a manner that would compromise system integrity or safety.

(d) As an alternative to paragraph (b)(1) of this section, electrical equipment that complies with the provisions of NFPA 496 (2017) (incorporated by reference, see § 110.10–1 of this subchapter) is acceptable for installation in Class I, Divisions 1 and 2. When equipment meeting this standard is used, it does not need to be identified and marked by an independent laboratory. The Commanding Officer, MSC, will evaluate equipment complying with this standard during plan review. The Commanding Officer, MSC, will generally consider it acceptable if a manufacturer's certification of compliance is indicated on a material list or plan.

(e) Equipment listed or certified to ANSI/UL 60079–18 or IEC 60079–18:2017, respectively, is not permitted in Class I Special Division 1 or Zone 0 hazardous location, unless the encapsulating compound of Ex ''ma'' protected equipment is not exposed to, or has been determined to be compatible with, the liquid or cargo in the storage tank.

**§§ 111.105–5, 111.105–7, and 111.105–9 [Removed and Reserved]**

■ 86. Remove and reserve §§ 111.105–5, 111.105–7, and 111.105–9.

■ 87. Revise § 111.105–11 to read as follows:

**§ 111.105–11 Intrinsically safe systems.**

(a) As part of plan approval, the manufacturer must provide appropriate installation instructions and restrictions on approved system components or the control drawing in Section 504.10(A) of NFPA 70 (incorporated by reference, see § 110.10–1 of this subchapter). Typical instructions and restrictions include information addressing—

(1) Voltage limitations;

(2) Allowable cable parameters;

(3) Maximum length of cable permitted;

(4) Ability of system to accept passive devices;

(5) Acceptability of interconnections with conductors or other equipment for other intrinsically safe circuits; and

(6) Information regarding any instructions or restrictions which were a condition of approval of the system or its components.

(b) Each intrinsically safe system must meet ANSI/ISA–RP12.06.01–2003 (incorporated by reference, see § 110.10–1 of this subchapter).

(c) For intrinsically safe systems under the standards cited in § 111.105–3(a)(1) and (2) the wiring methods must meet Sections 504.30, 504.50 and 504.60 of NFPA 70 (incorporated by reference, see § 110.10–1 of this subchapter). For intrinsically safe systems under the standards cited in § 111.105–3(b)(3) of this subpart, the installation and wiring must meet Clause 7, except for Clause 7.3.1, of IEC 60092–502:1999 (incorporated by reference, see § 110.10–1 of this subchapter).

**§ 111.105–15 [Removed and Reserved]**

■ 88. Remove and reserve § 111.105–15.

■ 89. Revise § 111.105–17 to read as follows:

**§ 111.105–17 Wiring methods for hazardous locations.**

(a) Through runs of marine shipboard cable meeting subpart 111.60 of this part are required for all hazardous locations. Armored cable may be used to enhance ground detection capabilities. Additionally, Type MC cable may be used subject to the restrictions in § 111.60–23.

(b) Where conduit is installed, the applicable requirements of NFPA 70, Clause 9 of IEC 61892–7: 2019, or Clause 7 of IEC of 60092–502: 1999 (all incorporated by reference; see § 110.10–1 of this subchapter) must be followed. Alternatively, the conduit and cable seals and sealing methods in Clause 6.8 of API RP 14F or API RP 14FZ (both incorporated by reference; see § 110.10–1 of this subchapter) may be followed. Where required by the standard that is applicable to the listed or certified electrical equipment, seal fittings, termination fittings, or glands must be listed or certified by an independent laboratory for use in hazardous locations.

(c) Each cable entrance into Class II and Class III (Zone 20, 21, and 22) equipment must be made with dust tight cable entrance seals approved for the installation.

■ 90. Revise § 111.105–19 to read as follows:

**§ 111.105–19 Switches.**

A switch that is explosionproof or flameproof, or that controls any explosionproof or flameproof equipment must have a pole for each ungrounded conductor.

■ 91. Add § 111.105–28 to read as follows:

**§ 111.105–28 Internal combustion engines.**

Internal combustion engines installed in Class I Divisions 1 and 2 (Zones 1 and 2) must meet the provisions of ASTM F2876–10 (incorporated by reference, see § 110.10–1 of this subchapter).

■ 92. Amend § 111.105–31 by:

■ a. Redesignating paragraphs (e) through (n) as paragraphs (f) through (o);

■ b. Adding new paragraph (e); and

■ c. Revising newly redesignated paragraph (o).

The addition and revision read as follows:

**§ 111.105–31 Flammable or combustible cargo with a flashpoint below 60 °C (140 °F), carriers of liquid-sulphur or inorganic acid.**

* * * * *

(e) *Submerged pump motors.* Submerged pump motors that do not meet requirements of paragraph (d) of this section must receive concept approval by the Commandant (CG–ENG) and plan approval by the Commanding Officer, MSC.

* * * * *

(o) *Duct keels.* The lighting and ventilation systems, and the gas detection system, if installed, for each pipe tunnel must meet section 5C–1–7/31.17 of ABS Marine Vessel Rules

(incorporated by reference; see 46 CFR 110.10–1).

**§ 111.105–35 [Amended]**

■ 93. Amend § 111.105–35 as follows:
■ a. In paragraph (a) introductory text, remove the text ''10 or Z'' and add, in its place, the text ''20''; and
■ b. In paragraph (c), remove the text ''11 or Y'' and add, in its place, the text ''22''.

**§ 111.105–39 [Amended]**

■ 94. In § 111.105–39 amend the introductory text and paragraph (a) as follows:
■ a. Remove the text ''Steel'' and add, in its place, the text ''Marine''; and
■ b. Remove the text ''5–10–4/3'' and add, in its place, the text ''5C–10–4/3''.

**§ 111.105–40 [Amended]**

■ 95. Amend § 111.105–40 by removing the text ''Steel'' in paragraph (a) and paragraph (c) introductory text and adding, in its place, the text ''Marine''.

**§ 111.105–41 [Amended]**

■ 96. Amend § 111.105–41 by removing the text ''IEEE 45–1998'' and adding, in its place, the text ''IEEE 45.1''.

**§ 111.105–45 [Amended]**

■ 97. Amend § 111.105–45 as follows:
■ a. In paragraph (a) introductory text, remove the text ''10 or Z'' and add, in its place, the text ''20'';
■ b. In paragraph (b) introductory text, remove the text ''11 or Y'' and add, in its place, the text ''22''; and
■ c. In paragraph (b)(1), remove the text ''10 or Z'' and add, in its place, the text ''20''.

■ 98. Add § 111.105–50 to subpart 111.105 to read as follows:

**§ 111.105–50 Alternative standard to the classification of hazardous locations requirements of this subchapter.**

This section contains alternative standards to the classification of hazardous locations requirements in §§ 111.105–29, 111.105–31, 111.105–32, 111.106–9, and 111.106–11.

(a) Classification of hazardous locations may be in accordance with IEC 60092–502:1999 (incorporated by reference, see § 110.10–1 of this subchapter).

(b) If IEC 60092–502:1999 is chosen as an alternative standard as allowed in paragraph (a) of this section, it shall be used exclusively and not in combination with §§ 111.105–29, 111.105–31, 111.105–32, 111.106–9, and 111.106–11.

(c) If IEC 60092–502:1999 is chosen as an alternative standard as allowed by paragraph (a), the following ventilation system requirements apply in addition to the requirements of IEC 60092–502:1999:

(1) Tank vessels that carry combustible or flammable cargo, carriers of liquid-sulphur or inorganic acid, and hydrocarbon pump rooms must meet the requirements in § 32.60–20(c) of this chapter,

(2) Bulk liquefied flammable gas and ammonia carriers must meet the requirements in § 38.20–10 of this chapter, and

(3) Mechanical ventilation on all applicable vessels must be capable of at least 30 air changes per hour, based upon the gross volume of the space, and must be provided for the following spaces:

(i) Cargo handling or pump rooms, and

(ii) Other spaces where hazardous location classification is dependent upon ventilation.

■ 99. Amend § 111.106–3 by:
■ a. Revising paragraphs (b)(1) introductory text, (b)(1)(i) and (iii);
■ b. Designating Note to paragraph (b)(1) as Note 1 to paragraph (b)(1);
■ c. Revising paragraphs (b)(2), (b)(3) introductory text, (b)(3)(vi);
■ d. Designating Note to § 111.106–3(b) as Note 3 to § 111.106–3(b); and
■ e. Revising paragraphs (c), and (d).

The revisions read as follows:

**§ 111.106–3 General requirements.**

* * * * *

(b) * * *

(1) NFPA 70 Articles 500 through 504 (incorporated by reference, see § 110.10–1 of this subpart). Equipment identified for Class I locations must meet the provisions of Sections 500.7 and 500.8 of NFPA 70 and must be tested and listed by an independent laboratory to any of the following standards:

(i) ANSI/UL 674, ANSI/UL 823, ANSI/UL 844, ANSI/UL 913, ANSI/UL 1203, ANSI/ISA 12.12.01, and/or ANSI/UL 2225 (incorporated by reference, see § 110.10–1).

* * * * *

(iii) CSA C22.2 Nos. 0–10, 30–M1986, 157–92, and/or 213–16 (incorporated by reference, see § 110.10–1).

* * * * *

(2) NFPA 70 Article 505 (incorporated by reference, see § 110.10–1 of this subchapter). Equipment identified for Class I locations must meet the provisions of Sections 505.7 and 505.9 of NPFA 70 and be tested and listed by an independent laboratory to the ANSI/ISA Series of standards incorporated in NFPA 70.

**Note 2 to paragraph (b)(2):** See sections 505.9(C) and 505.20 of the NFPA 70 for use of Division equipment in Zone designated spaces.

(3) IEC 60092–502:1999 (incorporated by reference, see § 110.10–1), with the following exceptions:

* * * * *

(vi) Electrical apparatus in hazardous locations must meet one or the combination of IEC 60079–1:2014, IEC 60079–2:2014, IEC 60079–5:2015, IEC 60079–6:2015, IEC 60079–7:2015, IEC 60079–11:2011, IEC 60079–13:2017, IEC 60079–15:2017, IEC 60079–18:2017, IEC 60079–25:2010 or IEC 60079–30–1:2007 (all incorporated by reference, see § 110.10–1 of this subchapter) in lieu of Clause 6.5.

* * * * *

(c) As an alternative to paragraph (b)(1) of this section, electrical equipment that complies with the provisions of NFPA 496 (2017) (incorporated by reference, see § 110.10–1 of this subchapter) is acceptable for installation in Class I, Divisions 1 and 2. When equipment meeting this standard is used, it does not need to be identified and marked by an independent laboratory. The Commanding Officer, Marine Safety Center (MSC) will evaluate equipment complying with this standard during plan review. It is normally considered acceptable if a manufacturer's certification of compliance is indicated on a material list or plan.

(d) Equipment listed or certified to ANSI/UL 60079–18 or IEC 60079–18:2017, respectively (both incorporated by reference, see § 110.10–1), is not permitted in Class I Special Division 1 or Zone 0 hazardous location, unless the encapsulating compound of Ex ''ma'' protected equipment is not exposed to, or has been determined to be compatible with, the liquid or cargo in the storage tank.

* * * * *

**§ 111.106–5 [Amended]**

■ 100. Amend § 111.106–5 as follows:
■ a. In paragraph (a):
■ i. Remove the text ''UL'' and add, in its place, the text ''ANSI/UL'';
■ ii. Remove the text ''60092–350:2008'' and add, in its place, the text ''60092–350:2014''; and
■ iii. Remove the text ''IEC 60092–353:2011'' and add, in its place, the text IEC ''60092–353:2016''; and
■ b. In paragraph (c), remove the text ''60092–502'' and add, in its place, the text ''60092–502:1999''.

**§ 111.106–15 [Amended]**

■ 101. Amend § 111.106–15, in paragraph (a), by removing the text ''60092–502'' wherever it appears and

adding, in its place, the text ''60092–502:1999''.

■ 102. Amend § 111.107–1 as follows:

■ a. In paragraph (a)(1), remove the text ''111.10–1'' and add, in its place, the text ''110.15–1'';

■ b. In paragraph (b) introductory text, remove the text ''NEC 2002 (incorporated by reference, see 46 CFR 110.10–1)'' and add, in its place, the text ''70 (incorporated by reference; see § 110.10–1 of this subchapter)'';

■ c. Remove paragraph (b)(1);

■ d. Redesignate paragraphs (b)(2) through (5) as paragraphs (b)(1) through (4);

■ e. Add new paragraph (b)(5); and

■ f. In paragraph (c)(1), remove the text ''or Category A of IEC 60332–3–22 (both incorporated by reference; see 46 CFR 110.10–1)'' and add, in its place, the text '', IEC 60332–3–22:2018, or IEC 60332–3–21:2018, Category A or A F/R (all incorporated by reference; see § 110.10–1 of this subchapter)''.

The addition reads as follows:

**§ 111.107–1 Industrial systems.**

* * * * *

(b) * * *

(5) Sections 111.30–1, 111.30–5(a), and 111.30–19(a)—Switchgear.

* * * * *

■ 103. Revise § 111.108–1 to read as follows:

**§ 111.108–1 Applicability.**

This subpart applies to MODUs, floating OCS facilities, and vessels, other than offshore supply vessels regulated under 46 CFR subchapter L of this chapter, constructed after April 2, 2018 that engage in OCS activities.

■ 104. Amend § 111.108–3 by:

■ a. Revising paragraphs (b)(1)(i) through (iii);

■ b. Designating Note to paragraph (b)(1) as Note 1 to paragraph (b)(1); and

■ c. Revising paragraphs (b)(2) and (3), (d) introductory text, and (e).

The revisions read as follows:

**§ 111.108–3 General requirements.**

* * * * *

(b) * * *

(1) * * *

(i) ANSI/UL 674, ANSI/UL 823, ANSI/UL 844, ANSI/UL 913, ANSI/UL 1203, ANSI/ISA 12.12.01, or ANSI/UL 2225 (all incorporated by reference, see § 110.10–1 of this subchapter).

(ii) FM Approvals Class Number 3600, Class Number 3610, Class Number 3611, Class Number 3615, or Class Number 3620 (all incorporated by reference, see § 110.10–1 of this subchapter).

(iii) CSA C22.2 Nos. 0–10, 30–M1986, 157–92, or 213–16 (all incorporated by reference, see § 110.10–1 of this subchapter).

* * * * *

(2) NFPA 70 Article 505 (incorporated by reference, see § 110.10–1 of this subchapter). Equipment required to be identified for Class I locations must meet the provisions of Sections 505.7 and 505.9 of NFPA 70 and must be tested and listed by an independent laboratory to one or more of the types of protection in ANSI/ISA Series of standards incorporated in NFPA 70.

**Note 2 to paragraph (b)(2):** See sections 505.9(C) of the NFPA 70 for use of Division equipment in Zone designated spaces.

(3) Clause 8 of IEC 61892–7:2019 (incorporated by reference, see § 110.10–1 of this subchapter) for all U.S. and foreign floating OCS facilities and vessels on the U.S. OCS or on the waters adjacent thereto; chapter 6 of 2009 IMO MODU Code (incorporated by reference, see § 110.10–1 of this subchapter) for all U.S. and foreign MODUs; or clause 6 of IEC 60092–502:1999 (incorporated by reference, see § 110.10–1 of this subchapter) for U.S. tank vessels that carry flammable and combustible cargoes. Electrical apparatus in hazardous locations must be tested to IEC 60079–1:2014, IEC 60079–2:2014, IEC 60079–5:2015, IEC 60079–6:2015, IEC 60079–7:2015, IEC 60079–11:2011, IEC 60079–13:2017, IEC 60079–15:2017, IEC 60079–18:2017, IEC 60079–25:2010 or IEC 60079–30–1:2007 (incorporated by reference, see § 110.10–1 of this subchapter) and certified by an independent laboratory under the IECEx System.

* * * * *

(d) As an alternative to paragraph (b)(1) of this section, electrical equipment that complies with the provisions of NFPA 496 (2017) (incorporated by reference, see § 110.10–1 of this subchapter) is acceptable for installation in Class I, Divisions 1 and 2. When equipment meeting this standard is used, it does not need to be identified and marked by an independent laboratory. The Commanding Officer, MSC, will evaluate equipment complying with this standard during plan review.

* * * * *

(e) Equipment listed or certified to ANSI/UL 60079–18 or IEC 60079–18:2017, respectively, (both incorporated by reference, see § 110.10–1 of this subchapter) is not permitted in Class I, Special Division 1, or Zone 0 hazardous locations unless the encapsulating compound of Ex ''ma'' protected equipment is not exposed to, or has been determined to be compatible with, the liquid or cargo in the storage tank.

* * * * *

## PART 112—EMERGENCY LIGHTING AND POWER SYSTEMS

■ 105. The authority citation for part 112 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; DHS Delegation No. 00170.1, Revision No. 01.2.

■ 106. Revise § 112.01–20 to read as follows:

**§ 112.01–20 Final emergency power source.**

A final emergency power source is one that automatically supplies power to the emergency loads under § 112.15–5 and automatically transfers the temporary emergency loads under § 112.15–1 when the potential of the final emergency source reaches 85 to 95% of normal value.

■ 107. Amend § 112.05–5 by:

■ a. Revising paragraph (a) introductory text;

■ b. Redesignating Table 112.05–5(a) as Table 1 to § 112.05–5(a); and

■ c. In footnote 2 to newly redesignated Table 1 to § 112.05–5(a), removing the text ''§ 111.93'' and add, in its place, the text ''§ 58.25–65''.

The revision reads as follows:

**§ 112.05–5 Emergency power source.**

(a) The emergency power source must meet Table 1 to 112.05–5 and have the capacity to supply all loads, at a unity (1.0) service factor, that are simultaneously connected to it, except a load on a bus-tie to the main switchboard or non-required loads that are connected in accordance with § 112.05–1(c).

* * * * *

■ 108. Add § 112.05–7 to subpart 112.05 to read as follows:

**§ 112.05–7 Use of emergency generator in port.**

The emergency generator may be used during lay time in port for supplying power to the vessels, provided the following:

(a) The fuel oil tank for the emergency generator prime mover must be appropriately sized and provided with a level alarm, which is to be set to alarm at a level where there is sufficient fuel oil capacity for the emergency services for the period of time required by § 112.05–5(a).

(b) The emergency generator prime mover is to be rated for continuous service.

(c) The prime mover is to be fitted with alarms, displays and automatic

shutdown arrangements that meet ABS Marine Vessel Rules (incorporated by reference, see § 110.10–1 of this subchapter), section 4–8–2/5.19 Table 2, except that for fuel oil tank low-level alarm, in paragraph (a) of this section is to apply instead. The displays and alarms are to be provided in the centralized control station. Monitoring at the engineers' quarters must meet ABS Marine Vessel Rules, section 4–9–6/19.

(d) The emergency generator room is to be fitted with fire detectors. Where the emergency generator is located in a space separated from the emergency switchboard, fire detectors are to be located in each space. The fire detection and alarm system must meet the requirements of subpart 113.10 of this subchapter.

(e) The power supply circuits, including control and monitoring circuits, for the use of an emergency generator in port are to be so arranged and protected that any electrical fault, except for the emergency generator and the emergency switchboard, will not affect the operation of the main and emergency services.

(f) Means are to be provided to readily change over to emergency operation.

(g) The generator is to be safeguarded against overload by automatically shedding such other loads so that the supply to the required emergency loads is always available.

(h) Operational instructions such as that on the fuel oil tank level, harbor/seagoing mode changeover arrangements, etc. are to be provided on board. Before the vessel is under way, all valves, switches, etc., are to be in the positions for the intended mode of operation of the emergency generator and the emergency switchboard. Such instructions are to be distinctly posted at the emergency generator room. Planned maintenance is to be carried out only while in port.

■ 109. Amend § 112.15–1 as follows:

■ a. In paragraph (r), remove the text ''46 CFR 110.10–1'' and add, in its place, the text ''§ 110.10–1 of this subchapter''; and

■ b. Add paragraph (s) to read as follows:

**§ 112.15–1 Temporary emergency loads.**

* * * * *

(s) Engineer's assistance-needed alarm.

**§ 112.43–13 [Removed and Reserved]**

■ 110. Remove and reserve § 112.43–13.

■ 111. Amend § 112.50–1 by revising paragraphs (g) and (h) to read as follows:

**§ 112.50–1 General.**

* * * * *

(g) The following automatic shutdowns are required for the generator set:

(1) Overspeed; and

(2) Operation of a fixed fire extinguishing system in the emergency generator room.

(h) The following audible alarms are required for the generator set if the prime mover is a diesel engine:

(1) Low oil pressure; and

(2) High cooling water temperature.

* * * * *

## PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

■ 112. The authority citation for part 113 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; DHS Delegation No. 00170.1, Revision No. 01.2.

■ 113. Revise § 113.05–7 to read as follows:

**§ 113.05–7 Environmental tests.**

(a) Communication, alarm system, control, and monitoring equipment, with the exception of fire and smoke detection and alarm systems, must meet the environmental tests of—

(1) Section 4–9–9, Table 1, of ABS Marine Vessel Rules (incorporated by reference; see § 110.10–1 of this subchapter) or the applicable ENV category of Lloyd's Register Type Approval System—Test Specification Number 1 (incorporated by reference; see § 110.10–1 of this subchapter); and

(2) IEC 60533:2015 (incorporated by reference; see § 110.10–1 of this subchapter) as appropriate.

(b) Components of smoke detection and alarm systems must be tested in accordance with 46 CFR 161.002.

**§ 113.10–7 [Amended]**

■ 114. In § 113.10–7, remove the text ''IEC 60529'' and add, in its place, the text ''IEC 60529:2013''.

**§ 113.20–3 [Amended]**

■ 115. In § 113.20–3, remove the text ''IEC 60529'' and add, in its place, the text ''IEC 60529:2013''.

**§ 113.25–7 [Amended]**

■ 116. Amend § 113.25–7, in paragraph (b), by removing the text ''as allowed under § 113.25–6(e)(2)''.

**§ 113.25–11 [Amended]**

■ 117. Amend § 113.25–11, in paragraph (a), by removing the text ''IEC 60529 (both incorporated by reference; see 46 CFR 110.10–1)'' and adding, in its place, the text ''IEC 60529:2013 (both incorporated by reference; see § 110.10–1 of this subpart)''.

**§ 113.30–25 [Amended]**

■ 118. Amend § 113.30–25 as follows:

■ a. In paragraph (e), remove the text ''IEC 60529 (both incorporated by reference; see 46 CFR 110.10–1)'' and add, in its place, the text ''IEC 60529:2013 (both incorporated by reference; see § 110.10–1 of this subpart)'';

■ b. In paragraph (i), remove the text ''IEC 60529'' and add, in its place, the text ''IEC 60529:2013''; and

■ c. In paragraph (j)(2), remove the phrase ''IEC 60331–11 and IEC 60331–21 (both incorporated by reference; see 46 CFR 110.10–1)'', and add in its place, the phrase ''60331–11:2009 and 60331–21:1999 (both incorporated by reference; see § 110.10–1 of this subpart)''.

**§ 113.37–10 [Amended]**

■ 119. Amend § 113.37–10, in paragraph (b), by removing the text ''IEC 60529 (both incorporated by reference; see 46 CFR 110.10–1)'' and adding, in its place, the text ''IEC 60529:2013 (both incorporated by reference; see § 110.10–1 of this subpart)''.

**§ 113.40–10 [Amended]**

■ 120. Amend § 113.40–10, in paragraph (b), by removing the text ''IEC 60529 (both incorporated by reference; see 46 CFR 110.10–1)'' and adding, in its place, the text ''IEC 60529:2013 (both incorporated by reference; see § 110.10–1 of this subpart).''.

**§ 113.50–5 [Amended]**

■ 121. Amend § 113.50–25 as follows:

■ a. In paragraphs (b) and (d), after the word ''maker'', add the words ''or initiating device''; and

■ b. In paragraph (g), remove the text ''IEC 60529 (both incorporated by reference; see 46 CFR 110.10–1)'' and add, in its place, the text ''IEC 60529:2013 (both incorporated by reference; see § 110.10–1 of this subpart)''.

■ 122. Revise § 113.65–5 to read as follows:

**§ 113.65–5 General requirements.**

Each whistle operator must meet Section 18 of IEEE 45.1–2017 (incorporated by reference; see § 110.10–1 of this subchapter).

Dated: February 27, 2023.

**W.R. Arguin,**

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

[FR Doc. 2023–04370 Filed 3–15–23; 8:45 am]

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**Federal Register**

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Thursday, March 16, 2023

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| | |
|---|---|
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| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |

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## FEDERAL REGISTER PAGES AND DATE, MARCH

12803–13014 ..... 1
13015–13290 ..... 2
13291–13654 ..... 3
13655–14046 ..... 6
14047–14248 ..... 7
14249–14472 ..... 8
14473–14870 ..... 9
14871–15264 ..... 10
15265–15596 ..... 13
15597–15900 ..... 14
15901–16168 ..... 15
16169–16370 ..... 16

## CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**2 CFR**

1201 ..... 12805

**Proposed Rules:**

184 ..... 14514
210 ..... 14514

**3 CFR**

**Proclamations:**

9704 (amended by Proc. 10522) ..... 13267
9980 (revised by Proc. 10522) ..... 13267
10521 ..... 12803
10522 ..... 13267
10523 ..... 13277
10524 ..... 13291
10525 ..... 13293
10526 ..... 13295
10527 ..... 13297
10528 ..... 13655
10529 ..... 14249
10530 ..... 16169

**Administrative Orders:**

Memorandums:
Memorandum of February 27, 2023 ..... 13015
Memorandum of March 3, 2023 ..... 15267
Notices:
Notice of March 1, 2023 ..... 13285
Notice of March 1, 2023 ..... 13287
Notice of March 1, 2023 ..... 13289
Notice of March 10, 2023 ..... 15595
Orders:
Order of March 13, 2023 ..... 16171
Presidential Determinations:
No. 2023–05 of Mar. 1, 2023 ..... 13657
No. 2023–04 of February 24, 2023 ..... 15265

**5 CFR**

630 ..... 15597

**6 CFR**

37 ..... 14473

**7 CFR**

905 ..... 14477
906 ..... 14479
993 ..... 14481
1222 ..... 14484
1710 ..... 12806

**Proposed Rules:**

52 ..... 14296
984 ..... 14083

**9 CFR**

1 ..... 16173
2 ..... 16173
3 ..... 16173

**Proposed Rules:**

1 ..... 14090
2 ..... 14090
3 ..... 14090
410 ..... 12870
412 ..... 15290

**10 CFR**

20 ..... 15864
21 ..... 15864
26 ..... 15864
50 ..... 15864
70 ..... 15864
72 ..... 13017, 15864
73 ..... 15864
74 ..... 15864
76 ..... 15864
429 ..... 14014, 15510, 16052
430 ..... 14014, 15510, 16052

**Proposed Rules:**

Ch. I ..... 14091
50 ..... 13717, 13735, 14957, 15620
51 ..... 13329, 14958
52 ..... 13735, 14957
170 ..... 13357
171 ..... 13357
430 ..... 13520, 16112

**11 CFR**

**Proposed Rules:**

113 ..... 13384

**12 CFR**

748 ..... 12811
1238 ..... 14871

**Proposed Rules:**

1026 ..... 16198
1240 ..... 15306

**14 CFR**

25 ..... 13299
39 ..... 12817, 12820, 13301, 13303, 13306, 13309, 13311, 13313, 13659, 13662, 13665, 13668, 13671, 14871, 14874, 14877, 14880, 14883, 14885, 15269, 15600, 15604, 15607, 15609, 15901, 16174
43 ..... 15905
65 ..... 15905
71 ..... 14047, 14048, 14486
97 ..... 14487, 14488
147 ..... 15905

**Proposed Rules:**

21 ..... 13071, 14092
25 ..... 13071, 14092
29 ..... 13071, 14092

39 .....13385, 14298, 14301, 14303, 14306, 15333
71 .....12870, 12872, 13737, 13739, 13740, 13742, 13744, 14514, 14516
259.....13387, 15620
260.....13387, 15620
399 .....13387, 13389, 15620, 15622

**15 CFR**

744.....13673

**16 CFR**

1220.....13686

**Proposed Rules:**

260.....14092

**17 CFR**

232.....13872
240.....13872
275.....13872

**Proposed Rules:**

275.....14672
279.....14672

**19 CFR**

206.....14887
207.....14887

**20 CFR**

**Proposed Rules:**

726.....14094

**21 CFR**

11.....13018
73.....16182
510.....14893
520.....14893
522.....14893
524.....14893
526.....14893
528.....14893
558.....14893
900.....15126
1308.....13692

**Proposed Rules:**

14.....14960
130.....12870
1120 .....14960, 14962, 15174
1300.....12875, 12890
1304.....12875, 12890
1306.....12875, 12890

**22 CFR**

41.....13694

**24 CFR**

203.....12822, 14252
206.....12822

**Proposed Rules:**

202.....12906

**25 CFR**

140.....13018
141.....13018
211.....13018
213.....13018
225.....13018
226.....13018
227.....13018
243.....13018
249.....13018

**26 CFR**

31.....14490
301.....14259

**27 CFR**

**Proposed Rules:**

9.....13072

**29 CFR**

102.....14908, 14913
1989.....15271
4044.....5906

**31 CFR**

587.....13316
591.....13022, 13024

**32 CFR**

310.....16182

**33 CFR**

100.....14259, 15275
110.....16185
165 .....12829, 12831, 13026, 13316, 14259, 14262, 14265, 14266, 14916, 16188
401.....14266
402.....15275

**Proposed Rules:**

100.....14309
147.....13745, 15939
165.....15625

**34 CFR**

**Proposed Rules:**

Ch. II.....15336

**36 CFR**

**Proposed Rules:**

13.....14963
251.....14517

**37 CFR**

1.....13028
202.....16190

**38 CFR**

3.....15277
9.....15907
17.....13033

**39 CFR**

111.....14268

**Proposed Rules:**

3006.....15343
3010.....13752
3011.....15343
3035.....13752
3040.....13752

**40 CFR**

9.....13696
52 .....12831, 12833, 12835, 13320, 13713, 14049, 14269, 14276, 14278, 14490, 14918
60.....14918
62.....15611
63.....13956, 14280
81.....14291, 14920
86.....15278
174.....15613, 15915
180 .....14491, 14495, 15279, 15616
271.....13034
721.....13696
1037.....15278

**Proposed Rules:**

50.....15940
52 .....13392, 13394, 13752, 13755, 14095, 14104, 15629
70.....14104
170.....15346
271.....13077
1090.....13758

**41 CFR**

60–1.....12842
102–73.....14058

**Proposed Rules:**

51.....15360
302.....15635
303.....15635
304.....15635
305.....15635
306.....15635
307.....15635
308.....15635
309.....15635

**42 CFR**

73.....13322
405.....15918
410.....15918
411.....15918
414.....15918
415.....15918
423.....15918
424.....15918
425.....15918
455.....15918

**46 CFR**

110.....16310
111.....16310
112.....16310
113.....16310

**47 CFR**

64.....14251
73.....13715, 14294
300.....13715

**Proposed Rules:**

2.....14312
54.....14529, 15558
64.....15558
73 .....13398, 13770, 14107, 15637, 16205, 16206

**48 CFR**

212.....12861, 12862
225.....12861
232.....12862
242.....12864
252.....12861, 12862

**Proposed Rules:**

538.....15941

**49 CFR**

**Proposed Rules:**

107.....13624
171.....13624
172.....13624
173.....13624
178.....13624
180.....13624
367.....16207
371.....14322
386.....14323
387.....14323

**50 CFR**

17 .....13038, 14794, 15921
300.....14066
622.....16194
648.....14499
660.....12865
665.....14081
679 .....12868, 13238, 13328, 14294, 14512, 14926, 16196

**Proposed Rules:**

17.....14536
36.....14107
217.....14560
223.....16212
300.....13399
622.....13077, 14964
635.....13771
648 .....13408, 14110, 14590, 15944

## LIST OF PUBLIC LAWS

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**Last List January 10, 2023**

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