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Contents

Federal Register

Vol. 88, No. 57

Friday, March 24, 2023

Agriculture Department
See Food and Nutrition Service
See Forest Service
See Office of Partnerships and Public Engagement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17782–17784

Alcohol and Tobacco Tax and Trade Bureau
RULES
Distilled Spirits Plants; CFR Correction, 17725

Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17828–17830

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17825–17826

Bureau of Safety and Environmental Enforcement
RULES
Oil and Gas and Sulfur Operations on the Outer Continental Shelf:
Civil Penalty Inflation Adjustment, 17725–17727

Census Bureau
RULES
Population Estimates Challenge Program, 17696–17706
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Housing Vacancy Survey, 17792

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17849–17851

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Human Trafficking Training and Technical Assistance Center Evaluation Package, 17851–17852

Civil Rights Commission
NOTICES
Meetings:
Guam Advisory Committee, 17791–17792

Coast Guard
RULES
Fire Safety of Small Passenger Vessels:
OMB Approval of Information Collection Request, 17740–17741
Safety Zones:
Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA, 17730
Security Zones:
Congressional Visit, Miami Beach, FL, 17728–17730

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 17824–17825

Consumer Product Safety Commission
NOTICES
Guidance:
Estimating Value per Statistical Life, 17826–17828

Defense Department
See Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17830–17831

Education Department
PROPOSED RULES
Negotiated Rulemaking Committee; Public Hearings, 17777–17778
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of Postgraduate Employment for the Foreign Language and Area Studies Fellowship Program, 17831

Employee Benefits Security Administration
NOTICES
Meetings:
Advisory Council on Employee Welfare and Pension Benefit Plans, 17870

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
RULES
Energy Conservation Program:
Test Procedure for Commercial and Industrial Pumps, 17934–17986
PROPOSED RULES
Energy Conservation Program:
Energy Conservation Standards for Manufactured Housing; Extension of Compliance Date, 17745–17748
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Weatherization Assistance Program, 17832–17833
Meetings:
Biological and Environmental Research Advisory Committee, 17831–17832

Environmental Protection Agency
PROPOSED RULES
Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities February 2023, 17778–17780
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules, 17845–17846
National Emission Standards for Hazardous Air Pollutants for Prepared Feeds Manufacturing, 17847–17848
New Source Performance Standards for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels, 17841–17842
Public Water System Supervision Program, 17846–17847
Standardized Permit for Resource Conservation and Recovery Act Hazardous Waste Management Facilities, 17842–17843
Environmental Impact Statements; Availability, etc., 17848
Meetings:
Chartered Clean Air Scientific Advisory Committee and Clean Air Scientific Advisory Committee Ozone Review Panel, 17840–17841
Requests for Nominations:
Ad Hoc Expert Reviewers; Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Examination of Microcosm/Mesocosm Studies for Evaluating the Effects of Atrazine on Aquatic Plant Communities; Meetings, 17843–17845

Federal Aviation Administration
RULES
Airspace Designations and Reporting Points:
Escalante Municipal Airport, Escalante, UT, 17688–17689
Airworthiness Directives:
General Electric Company Turbofan Engines, 17679–17682
MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes, 17682–17685
Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland Inc.) Airplanes, 17685–17688
Instrument Flight Rules Altitudes, 17689–17696
PROPOSED RULES
Airworthiness Directives:
Airbus SAS Airplanes, 17751–17752
Bombardier, Inc., Airplanes, 17748–17751
CFM International, S.A. Turbofan Engines, 17753–17755

Federal Communications Commission
RULES
Television Broadcasting Services:
Roanoke, VA, 17741–17742

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 17834
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
AES WR Limited Partnership, 17835–17836
Fifth Standard Solar PV, LLC, 17836–17837
Landrace Holdings, LLC, 17835
Newport Solar, LLC, 17835
PGR 2021 Lessee 18, LLC, 17836
PGR 2022 Lessee 1, LLC, 17833–17834
Virginia Line Solar, LLC, 17837

Federal Railroad Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17917–17925

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 17848–17849
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 17848

Fish and Wildlife Service
NOTICES
Requests for Nominations:
Hunting and Wildlife Conservation Council, 17866–17867

Food and Drug Administration
RULES
Food Labeling, Infant Formula Requirements, Food Additives and Generally Recognized as Safe Substances, New Dietary Ingredient:
Technical Amendments, 17710–17725
NOTICES
Framework for the Use of Digital Health Technologies in Drug and Biological Product Development, 17852–17853

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supplemental Nutrition Assistance Program: Operating Guidelines, Forms, Waivers, and Annual State Report on Verification of Participation, 17784–17790

Foreign Assets Control Office
RULES
Publication of Syria Web General License 23, 17727–17728
NOTICES
Sanctions Action, 17927–17929

Foreign-Trade Zones Board
NOTICES
Application for Subzone:
Givaudan Fragrances Corp., Foreign-Trade Zone 44, Mount Olive, Flanders and Towaco, NJ, 17792–17793

Forest Service
NOTICES
Meetings:
Black Hills National Forest Advisory Board, 17790

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
PROPOSED RULES
Administrative Simplification:
Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard; Extension of Comment Period, 17780–17781

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17861–17862

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Countermeasures Injury Compensation Program, 17860–17861
Privacy Act; System of Records, 17854–17859

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department
RULES
Environmental Criteria and Standards; CFR Correction, 17725
PROPOSED RULES
Floodplain Management and Protection of Wetlands:
Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, 17755–17776
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Emergency Housing Vouchers and Stability Vouchers, 17865–17866

Industry and Security Bureau
RULES
Revisions to the Unverified List, 17706–17710
NOTICES
Denial of Export Privileges:
Aiden Davidson, a/k/a Hamed Aliabadi, 17800–17801
Enrique Reyes-Morales, 17795–17796
Erik Aguero, 17799–17800
Genovevo Alvarez-Ronquillo, 17797–17798
Gerardo Emmanuel Sifuentes, 17794–17795
Jesus Adrian Ramirez, 17793–17794
Joseph Ormond Kirk, III, 17798–17799
Manuel Alonso Enriquez, 17793
Randy Lew Williams, 17796–17797

Interior Department
See Bureau of Safety and Environmental Enforcement
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
RULES
Income Taxes; CFR Correction, 17725
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Credit for Production of Electricity from Advanced Nuclear Power Facilities, 17929

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Tin Mill Products from the People's Republic of China, 17807–17808
White Grape Juice Concentrate from Argentina, 17801–17813

Justice Department
See Justice Programs Office
NOTICES
Proposed Consent Decree:
Clean Water Act, 17869

Justice Programs Office
NOTICES
Meetings:
Coordinating Council on Juvenile Justice and Delinquency Prevention, 17869–17870

Labor Department
See Employee Benefits Security Administration
See Mine Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Interstate Arrangement for Combining Employment and Wages, 17870–17871
Occupational Requirements Survey, 17871–17872

Land Management Bureau
NOTICES
Competitive Offer:
Solar Energy Development on Public Lands in Saguache County, CO, 17867–17869

Mine Safety and Health Administration
NOTICES
Petition for Modification of Application of Existing Mandatory Safety Standards, 17872–17878

National Institute of Standards and Technology
RULES
Rights to Federally Funded Inventions and Licensing of Government Owned Inventions, 17730–17740

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 17862
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 17862–17863

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Commercial Shark Quota Transfer, 17742–17744
Fisheries of the Exclusive Economic Zone off Alaska:
Pacific Cod by Pot Catcher/ Processors in the Bering Sea and Aleutian Islands Management Area, 17744
NOTICES
Meetings:
Caribbean Fishery Management Council, 17814–17815
Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review, 17818–17819
Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review, 17823
Fisheries of the South Atlantic; South Atlantic Fishery Management Council, 17815
New England Fishery Management Council, 17815–17816, 17822, 17824
Pacific Fishery Management Council, 17822–17823
Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops, 17816–17817

South Atlantic Fishery Management Council, 17817–17818
Taking and Importing Marine Mammals:
Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, 17819–17822

Nuclear Regulatory Commission
NOTICES
Establishment of Atomic Safety and Licensing Board:
Pacific Gas and Electric Co., 17879
Meetings; Sunshine Act, 17878–17879

Office of Partnerships and Public Engagement
NOTICES
Requests for Nominations:
Advisory Committee on Minority Farmers, 17790–17791

Pension Benefit Guaranty Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Multiemployer Plan Regulations, 17879–17881

Pipeline and Hazardous Materials Safety Administration
NOTICES
Hazardous Materials:
Actions on Special Permits, 17926
Applications for Modification to Special Permits, 17927
Applications for New Special Permits, 17925

Postal Regulatory Commission
NOTICES
New Postal Products, 17881

Postal Service
NOTICES
International Product Change:
Priority Mail Express International, Priority Mail International and First-Class Package International Service Agreement, 17881–17882

Securities and Exchange Commission
RULES
General Rules and Regulations, Securities Act of 1933; CFR Correction, 17710
Regulation S-T, General Rules and Regulations for Electronic Filings; CFR Correction, 17710
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 17901, 17910–17911
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Investment Company Interactive Data, 17900–17901
Application:
AGTB Fund Manager, LLC and AG Twin Brook Capital Income Fund, 17886
Ares Strategic Income Fund and Ares Capital Management, LLC, 17882
Meetings; Sunshine Act, 17891
Self-Regulatory Organizations; Proposed Rule Changes:
ICE Clear Europe, Ltd., 17886–17891
Miami International Securities Exchange, LLC, 17902–17907
MIAX PEARL, LLC, 17882–17886
Nasdaq BX, Inc., 17891–17898
National Securities Clearing Corp., 17898–17900
New York Stock Exchange, LLC, 17907–17910

Small Business Administration
NOTICES
Disaster Declaration:
Texas, 17911

State Department
NOTICES
Sanctions Actions, 17911–17915

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
National Advisory Council, 17863–17864

Surface Transportation Board
NOTICES
Exemption:
Acquisition and Change of Operators; Rainier Rail, LLC, City of Tacoma, WA, Department of Public Works d/b/a Tacoma Rail Mountain Division, 17915–17916
Release of Waybill Data, 17915

Susquehanna River Basin Commission
NOTICES
Meetings:
Actions Taken, 17916–17917

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Foreign Assets Control Office
See Internal Revenue Service
See United States Mint

U.S. Customs and Border Protection
NOTICES
Meetings:
Trade Facilitation and Cargo Security Summit 2023, 17864–17865

United States Mint
NOTICES
Meetings:
Citizens Coinage Advisory Committee, 17930

Veterans Affairs Department
RULES
Program for the Repayment of Educational Loans, 17740
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Approval for Collection of Information for the Planning and Execution of National and Regional Veterans Day Observations, 17931–17932
Meetings:
Advisory Committee on Former Prisoners of War, 17931
Advisory Committee on Tribal and Indian Affairs, 17930–17931

Western Area Power Administration
NOTICES
Rate Order:
Olmsted Powerplant Replacement Project, 17837–17840

Separate Parts In This Issue

Part II
Energy Department, 17934–17986

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.

10 CFR
429.....17934
431.....17934
Proposed Rules:
460.....17745

14 CFR
39 (3 documents) 17679, 17682, 17685
71.....17688
95.....17689
Proposed Rules:
39 (3 documents) 17748, 17751, 17753

15 CFR
90.....17696
744.....17706

17 CFR
230.....17710
232.....17710

21 CFR
101.....17710
106.....17710
170.....17710
172.....17710
173.....17710
184.....17710
190.....17710

24 CFR
51.....17725
Proposed Rules:
50.....17755
55.....17755
58.....17755
200.....17755

26 CFR
1.....17725

27 CFR
19.....17725

30 CFR
250.....17725

31 CFR
542.....17727

33 CFR
165 (2 documents) 17728, 17730

34 CFR
Proposed Rules:
Ch. VI.....17777

37 CFR
401.....17730
404.....17730

38 CFR
17.....17740

40 CFR
Proposed Rules:
180.....17778

45 CFR
Proposed Rules:
160.....17780
162.....17780

46 CFR
122.....17740
185.....17740

47 CFR
73.....17741

50 CFR
635.....17742
679.....17744

Rules and Regulations

Federal Register
Vol. 88, No. 57
Friday, March 24, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1416; Project Identifier AD–2022–00725–E; Amendment 39–22358; AD 2023–04–11]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2012–02–07 for certain General Electric Company (GE) CF6–45 and CF6–50 series model turbofan engines with a specified low-pressure turbine (LPT) rotor stage 3 disk installed. AD 2012–02–07 required inspections of high-pressure turbine (HPT) and LPT rotors, engine checks, vibration surveys, an optional LPT rotor stage 3 disk removal after a failed HPT blade borescope inspection (BSI) or a failed engine core vibration survey, established a lower life limit for the affected LPT rotor stage 3 disks, and required removing these disks from service at times determined by a drawdown plan. This AD was prompted by the occurrence of four events of separation of the LPT rotor assembly, which resulted in the LPT rotor assembly departing the rear of the engine. This AD requires inspections of HPT and LPT rotor stage 1 and stage 2 blades, vibration surveys, and use of a lower life limit for the affected LPT rotor stage 3 disks and, as terminating action to the inspections, engine checks, and vibration surveys, this AD requires removal and replacement of the LPT rotor stage 3 disk with a redesigned LPT rotor stage 3 disk. This AD also requires revising the compliance time of the drawdown plan for the removal and replacement of the LPT rotor stage 3 disk and prohibits the installation or reinstallation of certain LPT rotor stage 3 disks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 28, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1416; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sungmo Cho, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7241; email: *Sungmo.D.Cho@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–02–07, Amendment 39–16930 (77 FR 4650, January 31, 2012), (''AD 2012–02–07''). AD 2012–02–07 applied to certain GE CF6–45A, CF6–45A2, CF6–50A, CF6–50C, CF6–50CA, CF6–50C1, CF6–50C2, CF6–50C2B, CF6–50C2D, CF6–50E, CF6–50E1, CF6–50E2, and CF6–50E2B model turbofan engines, including engines marked on the engine data plate as CF6–50C2–F and CF6–50C2–R, with a specified LPT rotor stage 3 disk, identified by part number (P/N), installed. The NPRM published in the **Federal Register** on December 08, 2022 (87 FR 75181). The NPRM was prompted by the occurrence of four events of separation of the LPT rotor assembly, occurring after the effective date of AD 2012–02–07, which resulted in the LPT rotor assembly departing the rear of the engine. Following the most recent separation event, the FAA determined that due to the complexity of AD 2012–02–07, the limitations of certain operators to access required equipment and training needed to accomplish the inspections, and the manufacturer's redesign of the LPT rotor stage 3 disk, AD 2012–02–07 required supersedure. The redesigned LPT rotor stage 3 disk, P/N 2453M80P01, has a thicker forward spacer arm, which reduces stress on the forward arm area and increases its high cycle fatigue alternating stress capability. In the NPRM, the FAA proposed to continue to require inspections of HPT and LPT rotor stage 1 and stage 2 blades, vibration surveys, and use of a lower life limit for the affected LPT rotor stage 3 disks. As a terminating action to the inspections, engine checks, and vibration surveys, the FAA also proposed to require removal and replacement of the LPT rotor stage 3 disk with a redesigned LPT rotor stage 3 disk. In the NPRM, the FAA also proposed to require revision of the compliance time of the drawdown plan for the removal and replacement of the LPT rotor stage 3 disk, and to prohibit the installation or reinstallation of certain LPT rotor stage 3 disks.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. Commenters included Air Line Pilots Association, International and The Boeing Company. All commenters supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Costs of Compliance

The FAA estimates that this AD affects 26 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
HPT blade inspection, vibration survey, UI, EGT resistance check, EGT thermocouple inspection, cleaning and FPI of the LPT rotor stage 3 disk.	28 work-hours × $85 per hour = $2,380	$0	$2,380	$61,880
Remove and replace LPT rotor stage 3 disk	620 work-hours × $85 per hour = $52,700	276,300	329,000	8,554,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2012–02–07, Amendment 39–16930 (77 FR 4650, January 31, 2012); and

■ b. Adding the following new airworthiness directive:

2023–04–11 General Electric Company: Amendment 39–22358; Docket No. FAA–2022–1416; Project Identifier AD–2022–00725–E.

(a) Effective Date

This airworthiness directive (AD) is effective April 28, 2023.

(b) Affected ADs

This AD replaces AD 2012–02–07, Amendment 39–16930 (77 FR 4650, January 31, 2012) (AD 2012–02–07).

(c) Applicability

This AD applies to General Electric Company (GE) CF6–45A, CF6–45A2, CF6–50A, CF6–50C, CF6–50CA, CF6–50C1, CF6–50C2, CF6–50C2B, CF6–50C2D, CF6–50E, CF6–50E1, CF6–50E2, and CF6–50E2B model turbofan engines, including engines marked on the engine data plate as CF6–50C2–F and CF6–50C2–R, with an installed low-pressure turbine (LPT) rotor stage 3 disk having a part number listed in Table 1 to paragraph (c) of this AD.

TABLE 1 TO PARAGRAPH (c)—APPLICABLE LPT ROTOR STAGE 3 DISK PART NUMBERS

9061M23P06	9061M23P07	9061M23P08	9061M23P09	9224M75P01
9061M23P10	1473M90P01	1473M90P02	1473M90P03	1473M90P04
9061M23P12	9061M23P14	9061M23P15	9061M23P16	1479M75P01
1479M75P02	1479M75P03	1479M75P04	1479M75P05	1479M75P06
1479M75P07	1479M75P08	1479M75P09	1479M75P11	1479M75P13
1479M75P14	N/A	N/A	N/A	N/A

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the occurrence of four events of separation of the LPT rotor assembly, occurring after the effective date of AD 2012–02–07, which resulted in the LPT rotor assembly departing the rear of the engine. The FAA is issuing this AD to prevent critical life-limited rotating engine part failure. The unsafe condition, if not addressed, could result in an uncontained engine failure and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) *Borescope Inspections (BSI) of High-Pressure Turbine (HPT) Rotor Stage 1 and Stage 2 Blades.* For the BSIs required by paragraphs (g)(1)(i) through (iii) of this AD, inspect the blades from the forward and aft directions. Inspect all areas of the blade airfoil. The inspection must include blade leading and trailing edges and their convex and concave airfoil surfaces. Inspect for signs of impact, cracking, burning, damage, and distress.

(i) Within 75 cycles since last inspection (CSLI) or before further flight, whichever occurs later, perform an initial BSI of the HPT rotor stage 1 and stage 2 blades.

(ii) Thereafter, within every 75 CSLI, repeat the BSI of the HPT rotor stage 1 and stage 2 blades.

(iii) Within the cycle limits after the engine has experienced any of the events specified in Table 2 to paragraph (g)(1)(iii) of this AD, perform a BSI of the HPT rotor stage 1 and stage 2 blades.

TABLE 2 TO PARAGRAPH (g)(1)(iii)—CONDITIONAL BSI CRITERIA

If the engine has experienced:	Then borescope inspect:
An exhaust gas temperature (EGT) above redline	Within 10 cycles.
A shift in the smoothed EGT trending data that exceeds 18 °F (10 °C), but is less than or equal to 36 °F (20 °C)	Within 10 cycles.
A shift in the smoothed EGT trending data that exceeds 36 °F (20 °C)	Before further flight.
Two consecutive raw EGT trend data points that exceed 18 °F (10 °C), but are less than or equal to 36 °F (20 °C), above the smoothed average.	Within 10 cycles.
Two consecutive raw EGT trend data points that exceed 36 °F (20 °C) above the smoothed average	Before further flight.

(iv) If the engine fails any of the BSIs required by this AD, before further flight, remove the engine from service.

(2) *Engines with Damaged HPT Rotor Blades,* For those engines that fail any BSI requirements of this AD, before returning the engine to service, accomplish the actions required by paragraph (g)(2)(i) or (ii) of this AD:

(i) Remove the LPT rotor stage 3 disk from service; or

(ii) Perform a fluorescent-penetrant inspection (FPI) of the inner diameter surface forward cone body (forward spacer arm) of the LPT rotor stage 3 disk as specified in paragraphs (g)(6)(i)(A) through (C) of this AD.

(3) *EGT Thermocouple Probe Inspections.* (i) Within 750 CSLI, or before further flight, whichever occurs later, inspect the EGT thermocouple probe for damage.

Note 1 to paragraph (g)(3)(i): Damage to the EGT thermocouple probe may be indicated by wear through the thermocouple guide sleeve or contact between the turbine mid-frame liner and the EGT thermocouple probe.

(ii) Thereafter, within every 750 CSLI, re-inspect the EGT thermocouple probe for damage.

(iii) If any EGT thermocouple probe shows wear through the thermocouple guide sleeve or contact between the turbine mid-frame liner and the EGT thermocouple probe, before further flight, remove and replace the EGT thermocouple probe and ensure the turbine mid-frame liner does not contact the EGT thermocouple probe.

(4) *EGT System Resistance Checks.* (i) Within 750 cycles since the last resistance check on the EGT system or before further flight, whichever occurs later, perform an EGT system resistance check.

(ii) Thereafter, within every 750 cycles since the last resistance check, repeat the EGT system resistance check.

(iii) If an EGT system component fails the resistance system check, before further flight, remove and replace, or repair the EGT system component.

(5) *Engine Core Vibration Survey.* (i) Within 350 cycles since the last engine core vibration survey or before further flight, whichever occurs later, perform an initial engine core vibration survey.

(ii) Use about a one-minute acceleration and a one-minute deceleration of the engine between ground idle and 84% N2 (about 8,250 rpm) to perform the engine core vibration survey.

(iii) Use a spectral/trim balance analyzer or equivalent to measure the N2 rotor vibration.

(iv) If the vibration level is above 5 mils Double Amplitude, before further flight, remove the engine from service.

(v) For those engines that fail any engine core vibration survey requirements of this AD, before returning the engine to service:

(A) Remove the LPT rotor stage 3 disk from service; or

(B) Perform an FPI of the inner diameter surface forward spacer arm of the LPT rotor stage 3 disk as specified in paragraph (g)(6)(i)(A) through (C) of this AD.

(vi) Thereafter, within every 350 cycles since the last engine core vibration survey, perform the engine core vibration survey as required in paragraphs (g)(5)(i) through (v) of this AD.

(vii) If the engine has experienced any vibration reported by maintenance or flight crew that is suspected to be caused by the engine core (N2), within 10 cycles after the report, perform the engine core vibration survey as required in paragraphs (g)(5)(i) through (v) of this AD.

(viii) Vibration surveys carried out in an engine test cell as part of an engine manual performance run fulfill the vibration survey requirements of paragraphs (g)(5)(ii) and (iii) of this AD.

(6) *Initial and Repetitive FPI of LPT Rotor Stage 3 Disk.* (i) At the next shop visit after accumulating 1,000 cycles since the last FPI of the LPT rotor stage 3 disk forward spacer arm or before further flight, whichever occurs later:

(A) Clean the LPT rotor stage 3 disk forward spacer arm, including the use of a wet-abrasive blast, to eliminate residual or background fluorescence;

(B) Perform an FPI of the LPT rotor stage 3 disk forward spacer arm for cracks and for a band of fluorescence. Include all areas of the disk forward spacer arm and the inner diameter surface forward spacer arm of the LPT rotor stage 3 disk; and

(C) If a crack or a band of fluorescence is present, before further flight, remove the disk from service.

(ii) Thereafter, at each engine shop visit that occurs after accumulating 1,000 cycles since the last FPI of the LPT rotor stage 3 disk forward spacer arm, clean and perform an FPI of the LPT rotor stage 3 disk forward spacer arm, as specified in paragraph (g)(6)(i)(A) through (C) of this AD.

(7) *Removal of LPT Rotor Stage 3 Disk.* (i) For any installed LPT rotor stage 3 disk having a part number listed in Table 1 to paragraph (c) of this AD, at the first occurrence of any one of the conditions identified in paragraphs (g)(7)(i)(A) through (C) of this AD, remove the LPT rotor stage 3 disk from service and replace with LPT rotor stage 3 disk part number 2453M80P01.

(A) For a disk that has accumulated fewer than 3,200 cycles since new (CSN) as of March 6, 2012 (the effective date of AD 2012–02–07), remove the disk from service before accumulating 6,200 CSN.

(B) For a disk that accumulated 3,200 or more CSN as of March 6, 2012 (the effective date of AD 2012–02–07), do the actions required by paragraphs (g)(7)(i)(B)(1) or (2) of this AD, as applicable to your engine.

(1) If the engine has a shop visit before the disk accumulates 6,200 CSN, remove the disk from service at that shop visit.

(2) If the engine does not have a shop visit before the disk accumulates 6,200 CSN, remove the disk from service at the next shop visit after accumulating 6,200 CSN, not to exceed 3,000 cycles from March 6, 2012 (the effective date of AD 2012–02–07).

(C) Before exceeding 18 months from the effective date of this AD.

(h) Terminating Action

Replacement of the LPT rotor stage 3 disk in accordance with paragraph (g)(7) of this AD constitutes terminating action for the inspections, engine checks, and vibration surveys required by paragraphs (g)(1) through (6) of this AD.

(i) Installation Prohibition

After the effective date of this AD, do not install or reinstall onto any engine an LPT rotor stage 3 disk listed in Table 1 to paragraph (c) of this AD that has accumulated 6,200 CSN or more.

(j) Definitions

For the purposes of this AD:

(1) An EGT above redline is a confirmed over-temperature indication that is not a result of EGT system error.

(2) A shift in the smoothed EGT trending data is a shift in a rolling average of EGT readings that can be confirmed by a corresponding shift in the trending of fuel flow or fan speed/core speed (N1/N2) relationship.

Note 2 to paragraph (j)(2): You can find further guidance about evaluating EGT trend data in GE Company Service Rep Tip 373 ''Guidelines For Parameter Trend Monitoring.''

(3) An engine shop visit is the induction of an engine into the shop, where the separation of a major engine flange occurs; except the following maintenance actions, or any combination, are not considered engine shop visits:

(i) Induction of an engine into a shop solely for removal of the compressor top or bottom case for airfoil maintenance or variable stator vane bushing replacement;

(ii) Induction of an engine into a shop solely for removal or replacement of the stage 1 fan disk;

(iii) Induction of an engine into a shop solely for replacement of the turbine rear frame;

(iv) Induction of an engine into a shop solely for replacement of the accessory gearbox or transfer gearbox, or both; and

(v) Induction of an engine into a shop solely for replacement of the fan forward case.

(4) A raw EGT trend data point above the smoothed average is a confirmed temperature reading over the rolling average of EGT readings that is not a result of EGT system error.

(k) Credit for Previous Actions

You may take credit for the actions required by paragraph (g) of this AD if they were performed before the effective date of this AD using GE Service Bulletin (SB) No. CF6–50 SB 72–1315, Initial Issue, dated June 3, 2011, or GE SB No. CF6–50 SB 72–1315, Revision 1, dated June 30, 2011.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 certification office, send it to the attention of the person identified in paragraph (m) of this AD and email it to: *ANE-AD-AMOC@faa.gov.*

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

(3) AMOCs approved previously for AD 2010–12–10, Amendment 39–16331 (75 FR 32649, June 9, 2010); AD 2011–02–07, Amendment 39–16580 (76 FR 6323, February 4, 2011); or AD 2011–18–01, Amendment 39–16783 (76 FR 52213, August 22, 2011) are approved as AMOCs for the corresponding provisions of this AD.

(m) Related Information

For more information about this AD, contact Sungmo Cho, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7241; email: *Sungmo.D.Cho@faa.gov.*

(n) Material Incorporated by Reference

None.

Issued on February 17, 2023.

Christina Underwood,

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

[FR Doc. 2023–05472 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0679; Project Identifier MCAI–2021–01213–T; Amendment 39–22392; AD 2023–06–06]

RIN 2120–AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all MHI RJ Aviation ULC Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes, Model CL–600–2C11 (Regional Jet Series 550) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by a determination that new and more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate two aircraft maintenance manual (AMM) tasks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 28, 2023.

ADDRESSES: *AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0679; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Chirayu A. Gupta, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all MHI RJ Aviation ULC Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes, Model CL–600–2C11 (Regional Jet Series 550) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The NPRM published in the **Federal Register** on June 16, 2022 (87 FR 36269). The NPRM was prompted by AD CF–2021–38, dated November 5, 2021 (TCCA AD CF–2021–38), issued by Transport Canada, which is the aviation authority for Canada. TCCA AD CF–2021–38 states that a report was received of the emergency ram air valve part number GG670–95019–1 stuck in closed or partially open positions. An investigation revealed that the emergency ram air valve is failing due to corrosion of multiple sub-components, which causes an increase in the breakaway torque that cannot be overcome by the valve actuator.

In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all MHI RJ Aviation ULC Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes, Model CL–600–2C11 (Regional Jet Series 550) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The SNPRM published in the **Federal Register** on January 13, 2023 (88 FR 2279). The SNPRM was prompted by a determination that the existing maintenance or inspection program, as applicable, must be revised to incorporate two AMM tasks. In addition, Transport Canada revised AD CF–2021–38, dated November 5, 2021, and issued Transport Canada AD CF–2021–38R1, dated May 25, 2022 (TCCA AD CF–2021–38R1). In the SNPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate two AMM tasks. The FAA is issuing this AD to address in-service reports of emergency ram air valve part number (P/N) GG670–95019–1 stuck in closed or partially open positions, which, if not

corrected could result in a complete loss of outside air supply, leading to an increase in flight deck and cabin temperatures and a possible increased level of contaminated air (carbon monoxide, carbon dioxide, or ozone).

You may examine TCCA AD CF–2021–38 and TCCA AD CF–2021–38R1 in the AD docket at *regulations.gov* under Docket No. FAA–2022–0679.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the TCCA AD referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the SNPRM. None of the changes will increase the economic burden on any operator.

Costs of Compliance

The FAA estimates that this AD affects 1,158 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

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:

2023–06–06 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22392; Docket No. FAA–2022–0679; Project Identifier MCAI–2021–01213–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 28, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC airplanes, certificated in any category, identified in paragraphs (c)(1) through (5) of this AD.

(1) Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes.

(2) Model CL–600–2C11 (Regional Jet Series 550) airplanes.

(3) Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(4) Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(5) Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code: 21, Air conditioning.

(e) Reason

This AD was prompted by a determination that the existing maintenance or inspection program, as applicable, must be revised to incorporate two aircraft maintenance manual (AMM) tasks. The FAA is issuing this AD to address in-service reports of emergency ram air valve part number (P/N) GG670–95019–1 stuck in closed or partially open positions, which, if not corrected could result in a complete loss of outside air supply, leading to an increase in flight deck and cabin temperatures and a possible increased level of contaminated air (carbon monoxide, carbon dioxide, or ozone).

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

(1) Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in figure 1 to the introductory text of paragraph (g)(1) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (g)(1)(i) or (ii) of this AD.

Figure 1 to the introductory text of paragraph (g)(1)—*AMM Task for the Ram-Air Valve*

Effectivity	Interval	AMM Task Number *
All	1800 FH	21-52-04-710-801-A01, as specified in AMM Revision 70, dated May 25, 2022, or later revisions
* If, during any of the operational checks of the valve, the valve itself is found inoperable, before further flight, remove and replace valve P/N GG670-95019-1 with a serviceable part. The replacement of an inoperable valve with a serviceable valve on an airplane can be deferred in accordance with the applicable instructions and limitations of MMEL item 21-52-01, sub-item 2 or 3 (only for models CL-600-2C10 or CL-600-2D15/CL-600-2D24 respectively). To defer the valve replacement, the ram air shutoff valve is deactivated in the open position in accordance with AMM task 21-52-00-040-802 and the airplane is operated in accordance with the MMEL operating procedure.		

(i) For airplanes that have accumulated less than 1,800 flight hours since the last operational check of the ram air shutoff valve was performed as specified in AMM Task 21–52–04–710–801–A01, and for airplanes that have accumulated less than 1,800 flight hours from the date of issuance of the original airworthiness certificate or original export certificate of airworthiness: Within 90 days after the effective date of this AD, or before accumulating 1,800 total flight hours, whichever occurs later.

(ii) For airplanes that have accumulated 1,800 flight hours or more since the last operational check of the ram air shutoff valve was performed as specified in AMM Task 21–52–04–710–801–A01, and for airplanes that have accumulated 1,800 flight hours or more since the date of issuance of the original airworthiness certificate or original export certificate of airworthiness and for which no operational check of the valve has been performed: Within 90 days after the effective date of this AD or before accumulating 3,000 total flight hours, whichever occurs later.

(2) Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in figure 2 to the introductory text of paragraph (g)(2) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (g)(2)(i) or (ii) of this AD.

Figure 2 to the introductory text of paragraph (g)(2)—*AMM Task for the Pack Discharge and Ram-Air Supply Ducts*

Effectivity	Interval	AMM Task Number *
All	17600 FH	21-51-00-220-801-A01, as specified in AMM Revision 70, dated May 25, 2022, or later revisions
* If damage is found during any of the detailed inspections of the pack discharge and ram air supply ducts, such as: wear, cuts, holes, signs of leakage, signs of overheating, or damage to the duct insulation, before further flight, replace the damaged component(s) in accordance with AMM 21-52-06 for the ram air supply duct, AMM 21-51-26 for the left pack discharge duct, and AMM 21-51-28 for the right pack discharge duct. If parts are not available, contact MHI RJ for an approved disposition. The approved disposition must specifically refer to Part II. of Transport Canada AD CF-2021-38R1.		

(i) For airplanes that have accumulated less than 17,600 flight hours since the last detailed inspection of the pack discharge and ram air supply ducts was performed as specified in AMM Task 21–51–00–220–801–A01, and for airplanes that have accumulated less than 17,600 flight hours since the date of issuance of the original airworthiness certificate or original export certificate of airworthiness: Within 90 days after the effective date of this AD, or before accumulating 17,600 total flight hours, whichever occurs later.

(ii) For airplanes that have accumulated 17,600 flight hours or more since the last detailed inspection of the pack discharge and ram air supply ducts as specified in AMM Task 21–51–00–220–801–A01, and for airplanes that have accumulated 17,600 flight hours or more since the date of issuance of the original airworthiness certificate or original export certificate of airworthiness, and for which no detailed inspection of the pack discharge and ram air supply ducts has been performed: Within 90 days after the effective date of this AD.

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the

procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Additional Information

(1) Refer to Transport Canada AD CF–2021–38R1, dated May 25, 2022, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–0679.

(2) For more information about this AD, contact Chirayu A. Gupta, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued on March 15, 2023.

Christina Underwood,

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

[FR Doc. 2023–05705 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0814; Project Identifier AD–2022–00205–A; Amendment 39–22397; AD 2023–06–11]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland Inc.) Model DHC–2 Mk. I airplanes with Supplemental Type Certificate (STC) No. SA01324CH installed. This AD was prompted by a report of damage in the main wing spar. This AD requires inspecting the wing structure for damage (drill starts, corrosion, cracks, and improperly installed fasteners), repairing damage, and reporting the inspection results if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 28, 2023.

ADDRESSES: *AD Docket:* You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0814; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tim Eichor, Aviation Safety Engineer, Chicago ACO Branch, FAA, 2300 E Devon Avenue, Des Plaines, IL 60018; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland Inc.) Model DHC–2 Mk. I airplanes with STC No. SA01324CH installed. The NPRM published in the **Federal Register** on July 8, 2022 (87 FR 40749). The NPRM was prompted by a report that during an annual inspection of a Viking Air Limited Model DHC–2 Mk. I airplane, a gap was noted between the doubler and wing near station 42.5, requiring partial removal of the doubler and removal of the sealant between the doubler and the wing skin. Further inspection of the internal wing structure of that area with a borescope found damage in the forward spar caused by a drill during initial installation of the doubler. The doubler was installed as part of Wipaire, Inc. (Wipaire), STC No. SA01324CH. Inspection of the rest of the operator's fleet of airplanes with STC No. SA01324CH installed found a total of 7 out of 28 wings with drill start damage in the same area. Later inspections on these same airplanes on the outboard end of the doubler installation revealed improperly installed fasteners. As only a small fraction of the affected fleet has been inspected, the possible extent of damage in the field is unknown. Accordingly, the FAA determined that in addition to inspecting for drill starts and improperly installed fasteners, inspecting for corrosion and cracks is necessary. Damage of the main structural members of the wing could adversely affect the structural integrity of the airplane and could result in loss of control of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Wipaire. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request Regarding Changing the Unsafe Condition

Wipaire requested that the unsafe condition statement in the Background section and paragraph (e) of the proposed AD be changed from ''Damage of the main structural members of the wing could adversely affect the structural integrity of the airplane and could result in loss of control of the airplane'' and suggested the wording ''This condition, if not addressed, could have a slight adverse effect on the structural integrity of the airplane.'' Wipaire stated that although the unsafe condition statement in the NPRM is technically correct, it is misleading to operators affected by the proposed AD. Wipaire noted that a structural analysis performed and approved by an FAA Designated Engineering Representative (DER) showed that this type of damage at this location had no appreciable effect on the overall strength of the spar. Wipaire explained that the doubler is installed inboard of the wing strut on the upper section of the wing and in this configuration the spar is predominately loaded compression so crack growth would be slow and detectable.

The FAA disagrees with the commenter's request. As only a small fraction of the affected fleet has been inspected, the extent of damage in the field is unknown. Accordingly, it is not accurate to say that the damage of the main structural members of the wing will not adversely affect the structural integrity of the wing, resulting in both the loss of the wing and loss of control of the airplane. No change was made to this AD regarding this issue.

Request Regarding Background Section

Wipaire requested the Background section of the NPRM be changed from ''6 out of 14 wings with drill start damage,'' which is based off of inspection results of a single operator to the broader inspection results of ''7 out of 28 wings with drill start damage,'' because these results are based on Wipaire's record of inspections performed by multiple operators. Wipaire stated that, while still a statistically small sample size, the rewording to specify 28 wings provides a more accurate representation of the potential for damage existing fleet wide. Wipaire also mentioned that it hoped the FAA did not issue the NPRM using calculations based on ''6 out of 14 wings.''

The FAA agrees with the commenter's statement that, in total, 7 wings were found to be damaged based on inspection results provided by Wipaire on January 26, 2022. The FAA has revised the Background section of this final rule to read ''Inspection of the rest of the operator's fleet of airplanes with STC No. SA01324CH installed found a total of 7 out of 28 wings with drill start damage in the same area.''

Regarding issuing the AD based on the data of ''6 out of 14 wings,'' the FAA clarifies that under 14 CFR 39.5, issuance of an AD is based on the finding that an unsafe condition exists in a product and that condition is likely to exist or develop in other products of the same type design. The FAA does not issue an AD based upon a sample size of airplanes. The unsafe condition addressed in this AD is based on a report of damage in the main wing spar. This condition, if not addressed, could adversely affect the structural integrity of the airplane and result in loss of control of the airplane. Inspections and repair are therefore necessary to detect and correct damage in the main wing spar before it leads to structural failure.

Request Regarding Costs of Compliance: Increase Estimated Work Hours

Wipaire requested that the work-hours for doing the inspection be increased from 6 work-hours for a single side of the wing (left or right) to 12 work-hours for both sides of the wing. Wipaire justified the request by stating that due to the inspection requirement including the complete area under the doubler, the estimate should be increased.

The FAA agrees with the commenter's request and has increased the estimated work-hours for the inspection from 6 to 12 in the Costs of Compliance section in this AD.

Request Regarding Costs of Compliance: Add Costs for Developing and Approving Repair Scheme

Wipaire requested that estimated costs for developing a repair scheme and obtaining repair scheme approval be included in the Costs of Compliance section. Wipaire stated that these are additional costs on operators that were not accounted for in the NPRM.

The FAA acknowledges the commenter's concerns. The FAA recognizes that in accomplishing the requirements of any AD, operators might incur ''incidental'' costs in addition to the ''direct'' costs that are reflected in the cost analysis presented in the AD. However, the cost analysis in ADs typically does not include incidental costs. No change was made to this AD regarding this issue.

Request Regarding Reducing the Inspection Areas

Wipaire requested that the FAA understand the feasibility of inspecting every bay (both forward and aft the spar) across the entire area and adjust the inspection requirements accordingly. Wipaire stated that the requirement to visually inspect the aircraft structure underneath the entire doubler between wing stations 30.26 and 126.36 may not be able to be accomplished without removal of the wing skins and that there are bays, especially on the forward side of the spar, that have very limited access through a combination of existing access panels and lightening holes in structural members. Wipaire recommended focusing the inspection only on areas where data and prior inspections support that damage have been found (fastener locations near the spar) because a smaller area of focus will lead to more thorough inspections and easier compliance for operators in the field. Wipaire further stated that the Background section of the NPRM indicated damage was found on the inboard side of the doubler and improperly installed fasteners on the outboard side of the doubler and recommended focusing on those areas for inspection.

The FAA disagrees with the commenter's request because there is other airplane structure under the doublers that could be damaged by the installation of STC No. SA01324CH. No change was made to this AD regarding this issue.

Comment Regarding the Visual Inspection

Wipaire stated that a borescope is needed to comply with the visual inspection requirement specified in the proposed AD. Wipaire explained that a borescope would be needed in order to view the area of inspection because there are multiple 90-degree bends due to access bays and lightening holes. Wipaire further stated that based on its experience, operators in Alaska might not have borescope equipment and personnel able to use that equipment readily available, which could lead to the inability to comply with the proposed AD as written.

The FAA acknowledges the commenter's concern. While a borescope inspection is acceptable, paragraph (g) of this AD states that a borescope, flashlight and mirror, or equivalent, may be used to do the visual inspection. The FAA's intent is that any inspection method that allows for visual inspection of 100 percent of the airplane structure complies with the visual inspection requirement. This AD also provides time to transport the airplane to a location with the resources and personnel to appropriately inspect the airplane. No change was made to this AD regarding this issue.

Request Regarding Required Actions

Wipaire requested that the FAA reword the proposed inspection requirement to ''. . . visually inspect for drill starts, improperly installed fasteners, and corrosion or cracks related to the damage caused by any drill starts or improperly installed fasteners'' because the wording for the proposed requirement to inspect for corrosion and cracks could be interpreted broadly and could be extended beyond the scope of the proposed AD. Wipaire stated that the proposed requirement to inspect generally for corrosion and cracks may lead to operators being less likely to comply with the requirements specified in the proposed AD in a timely manner.

The FAA disagrees with the commenter's request. Any crack or corrosion that is found, regardless if it is related to damage caused by any drill start or improperly installed fastener, must be addressed to keep the airplane in an airworthy condition. No change was made to this AD regarding this issue.

Request Regarding Special Flight Permit

Wipaire requested that, if no cracks are found during the visual inspection specified in paragraph (g) of the

proposed AD, special flight permits be allowed so an airplane can fly to a maintenance facility for repair work. Wipaire stated that the language in paragraph (g) of the proposed AD and the special flight permit prohibition in paragraph (i) of the proposed AD are not supported by the data it gathered during its investigation into this issue.

The FAA disagrees with the commenter's request to allow a special flight permit to repair the aircraft as long as cracks are not found. Drill starts, corrosion, and improperly installed fasteners contribute to the unsafe condition as well as cracks, and if any of these are found during the inspection, then they must be corrected before further flight after the inspection. The compliance time of this AD is 12 months and was established to coincide with the next annual inspection. Therefore, at the time of the inspection, the airplane should already be at a facility where the repair could be done. Thus, a special flight permit is not justified. No change was made to this AD regarding this issue.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information

The FAA reviewed a Wipaire letter, dated September 7, 2021. This letter requests that operators inspect the front wing spar (strap) and front (forward) spar aft flange for drill holes due to the installation of the top wing strap installed using Wipaire Drawing 5D1–790, which is an attachment to the letter. This letter also requests reporting all findings of damage to Wipaire.

Differences Between This AD and the Service Information

The Wipaire letter, dated September 7, 2021, specifies inspecting the front spar and front spar aft flange between wing stations 42.5 and 56. This AD requires inspecting all airplane structure under the installed doubler between wing stations 30.26 and 126.36.

Impact on Intrastate Aviation in Alaska

Airplanes modified by Wipaire STC No. SA01324CH are often used to transport cargo and supplies to remote areas of Alaska. The FAA estimates that roughly half of the U.S.-registered airplanes modified by STC No. SA01324CH are operating in Alaska. Since damage to the main structural members of the wing could result in loss of the airplane wing and therefore, loss of control of the airplane, the FAA has determined that the need to correct the unsafe conditions outweighs any impact on aviation in Alaska.

Costs of Compliance

The FAA estimates that this AD affects 96 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	12 work-hours × $85 per hour = $1,020	Not Applicable	$1,020	$97,920

The FAA estimates the following costs to do any necessary repairs that would be required based on the results of the inspection. The agency has no way of determining the number of airplanes that might need these repairs.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair damage	100 work-hours × $85 per hour = $8,500	$35,000	$43,500
Report inspection results	1 work-hour × $85 per hour = $85	Not Applicable	85

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–06–11 Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland Inc.): Amendment 39–22397; Docket No. FAA–2022–0814; Project Identifier AD–2022–00205–A.

(a) Effective Date

This airworthiness directive (AD) is effective April 28, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited (type certificate previously held by Bombardier Inc. and de Havilland Inc.) Model DHC–2 Mk. I airplanes, all serial numbers, certificated in any category, with Supplemental Type Certificate (STC) No. SA01324CH installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 5711, Wing Spar.

(e) Unsafe Condition

This AD was prompted by a report of damage in the main wing spar. The FAA is issuing this AD to detect and address damage (drill starts, corrosion, cracks, and improperly installed fasteners) to the main structural members of the wing. This condition, if not addressed, could adversely affect the structural integrity of the airplane and result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Within 12 months after the effective date of this AD, using a borescope, flashlight and mirror, or equivalent, visually inspect the aircraft structure under the installed doubler between wing stations 30.26 and 126.36 for drill starts, corrosion, cracks, and improperly installed fasteners. Pay particular attention to the spar cap, spar flange, and stringers, and include all structural items in the wing. If there is a drill start, any corrosion, a crack, or an improperly installed fastener, before further flight, repair using a method approved by the Manager, Chicago ACO Branch, FAA. For a repair method to be approved by the Manager, Chicago ACO Branch, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

Note 1 to paragraph (g): Wipaire, Inc., letter, dated September 7, 2021, provides additional information on this subject, including examples of damage.

(h) Reporting Requirement

If, during the inspection required by paragraph (g) of this AD, any damage is found, within 30 days after doing the inspection or within 30 days after the effective date of this AD, whichever occurs later, report the following information to the person identified in paragraph (k)(1) of this AD:

(1) Name and address of owner.

(2) Date of the inspection.

(3) Name, address, telephone number, and email address of person submitting the report.

(4) Airplane serial number, registration number, STC installation date, and total hours time-in-service on the airplane at the time of the inspection.

(5) Description of damage. Include affected structure, location, dimensions, and photos of damage (or sketches, if photos are not possible).

(i) Special Flight Permit

Special flight permits are prohibited.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD.

(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

(1) For more information about this AD, contact Tim Eichor, Aviation Safety Engineer, Chicago ACO Branch, FAA, 2300 E Devon Avenue, Des Plaines, IL 60018; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov.*

(2) For service information identified in this AD that is not incorporated by reference, contact Wipaire, Inc., 1700 Henry Avenue, Fleming Field (KSGS), South St. Paul, MN 55075; phone: (651) 451–1205; fax: (651) 457–7858; email: *switte@wipaire.com;* website: wipaire.com. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(l) Material Incorporated by Reference

None.

Issued on March 20, 2023.

Christina Underwood,

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

[FR Doc. 2023–05987 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1561; Airspace Docket No. 22–ANM–58]

RIN 2120–AA66

Establishment of Class E Airspace; Escalante Municipal Airport, Escalante, UT

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

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Escalante Municipal Airport, UT. This action will support the airport's transition from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Effective 0901 UTC, June 15, 2023. The Director of the Federal Register approves this incorporation by reference under Title 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11, Airspace Designations and Reporting Points, and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for FAA–2022–1561 (87 FR 77540; December 19, 2022) to establish Class E airspace extending upward from 700 feet above the surface at Escalante Municipal Airport, UT, in support of the airport's transition from VFR to IFR. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by establishing Class E airspace beginning at 700 feet above the surface at Escalante Municipal Airport, UT. This airspace area will contain departing aircraft until reaching 1,200 feet above the surface, arriving aircraft below 1,500 feet above the surface, and circling maneuvers southwest of the airport. The proposed airspace is described in relation to the airport reference point and is approximately 7.5 nautical miles by 13.5 nautical miles in size to fully contain IFR operations at the airport.

The Class E5 airspace designation is published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11, which is published annually and becomes effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

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

* * * * *

ANM UT E5 Escalante, UT [New]

Escalante Municipal Airport, UT
(Lat. 37°44′43″ N, long. 111°34′13″ W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at a point on the 124° bearing, 7.3 miles from the airport, then to the 154° bearing at 7.2 miles, then to the 245° bearing at 5.6 miles, then to the 281° bearing at 8.6 miles, then to the 335° bearing at 7 miles, thence to the point of beginning.

* * * * *

Issued in Des Moines, Washington, on March 16, 2023.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–06019 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31480; Amdt. No. 571]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the

required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, April 20, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on March 20, 2023.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, April 20, 2023.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2)

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 571 effective date April 20, 2023]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3400 RNAV Route T400 is Amended by Adding			
LLUKY, NE WP	FIITS, SD	WP 3700	17500
FIITS, SD WP	DURWN, MN	WP 3400	17500
is Amended to Delete			
LLUKY, NE WP	IMUPP, SD	WP 3700	17500
IMUPP, SD WP	DURWN, MN	WP 3400	17500
§ 95.3414 RNAV Route T414 is Amended To Read in Part			
STYLZ, NC WP	GENOD, NC	FIX 6200	17500
GENOD, NC FIX	SWENK, NC	FIX 5200	17500
SWENK, NC FIX	VAESE, NC	FIX 4900	17500
VAESE, NC FIX	BONZE, NC	WP 4500	17500
§ 95.3420 RNAV Route T420 is Amended To Read in Part			
DALHART, TX VORTAC	EZEEE, TX	WP 5800	17500
EZEEE, TX WP	BRISC, TX	FIX 5000	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 571 effective date April 20, 2023]

From	To	MEA	MAA
§ 95.3465 RNAV Route T465 is Added To Read			
DES MOINES, IA VORTAC	GACEY, IA	WP 4100	17500
GACEY, IA WP	IOWWA, IA	WP 3100	17500
IOWWA, IA WP	RRAZZ, IA	WP 3100	17500
RRAZZ, IA WP	KBEEE, IA	WP 3100	17500
KBEEE, IA WP	MOORI, MN	WP 3100	17500
MOORI, MN WP	DEMLL, MN	WP 3100	17500
DEMLL, MN WP	NITZR, MN	WP 3000	17500

From	To	MEA
§ 95.6001 Victor Routes–U.S.		
§ 95.6005 VOR Federal Airway V5 is Amended To Delete		
ATHENS, GA VOR/DME	IRMOS, GA FIX	3100
IRMOS, GA FIX	CORCE, GA FIX	3800
CORCE, GA FIX	AWSON, GA FIX	*5400
*4600—MOCA		
AWSON, GA FIX	*NELLO, GA FIX	**7000
*7000—MCA NELLO, GA FIX, E BND		
**5500—MOCA		
NELLO, GA FIX	*HOCHE, GA FIX	5400
*4000—MCA HOCHE, GA FIX, SE BND		
HOCHE, GA FIX	CHOO CHOO, TN VORTAC	3000
§ 95.6006 VOR Federal Airway V6 is Amended To Delete		
NILES, IL FIX	CHETT, MI FIX	*3500
*2500—MOCA		
CHETT, MI FIX	GIPPER, MI VORTAC	*3000
*2200—MOCA		
GIPPER, MI VORTAC	MODEM, IN FIX	*4000
*2600—MOCA		
§ 95.6010 VOR Federal Airway V10 is Amended To Delete		
GIPPER, MI VORTAC	LITCHFIELD, MI VOR/DME	2800
§ 95.6011 VOR Federal Airway V11 is Amended To Read in Part		
BRICKYARD, IN VORTAC	MARION, IN VOR/DME	2900
§ 95.6012 VOR Federal Airway V12 is Amended To Read in Part		
TUCUMCARI, NM VORTAC	*VEGGE, TX FIX	6100
*7000—MRA		
VEGGE, TX FIX	PANHANDLE, TX VORTAC	6100
§ 95.6016 VOR Federal Airway V16 is Amended To Read in Part		
BUCKY, TN FIX	VOLUNTEER, TN	VORTAC
E BND *3500		
W BND *5000		
*3000—MOCA		
§ 95.6017 VOR Federal Airway V17 is Amended To Read in Part		
MILET, TX FIX	SOMER, TX FIX	*4000
*2600—MOCA		
SOMER, TX FIX	SAN ANTONIO, TX VORTAC	3000
§ 95.6020 VOR Federal Airway V20 is Amended To Delete		
MONTGOMERY, AL VORTAC	TUSKEGEE, AL VOR/DME	2000
TUSKEGEE, AL VOR/DME	MARVO, AL WP	2100
MARVO, AL WP	COLUMBUS, GA VORTAC	*2600
*2000—MOCA		
COLUMBUS, GA VORTAC	SINCA, GA FIX	*4500
*2500—MOCA		
SINCA, GA FIX	ATHENS, GA VOR/DME	*3000

From	To	MEA
*2200—MOCA		
RICHMOND, VA VORTAC	*TAPPA, VA FIX	2000
*5000—MCA	TAPPA, VA FIX, NE BND.	
TAPPA, VA FIX	*COLIN, VA FIX	**5000
*10000—MCA COLIN, VA FIX, N BND		
**1500—MOCA		
**2000—GNSS MEA		
COLIN, VA FIX	NOTTINGHAM, MD VORTAC	*10000
*1800—MOCA		
*2000—GNSS MEA		
Is Amended To Read in Part		
ELECTRIC CITY, SC VORTAC	*CLEVA, SC FIX	3200
*7000—MRA		
*6200—MCA CLEVA, SC FIX, NE BND		
CLEVA, SC FIX	*TUXDO, SC FIX.	
SW BND 5200		
NE BND 6200		
*7000—MRA		
§ 95.6030 VOR Federal Airway V30 is Amended To Delete		
PULLMAN, MI VOR/DME	LITCHFIELD, MI VOR/DME	2800
§ 95.6035 VOR Federal Airway V35 is Amended To Read in Part		
ELECTRIC CITY, SC VORTAC	CLEVA, SC FIX	3200
*7000—MRA		
*6200—MCA CLEVA, SC FIX, NE BND		
CLEVA, SC FIX	*TUXDO, SC FIX.	
SW BND 5200		
NE BND 6200		
*7000—MRA		
§ 95.6051 VOR Federal Airway V51 is Amended To Read in Part		
SHELBYVILLE, IN VOR/DME	BOILER, IN VORTAC	*5000
*2900—MOCA		
§ 95.6053 VOR Federal Airway V53 is Amended To Read in Part		
COLUMBIA, SC VORTAC	*WILLS, SC FIX	UNUSABLE
*3500—MRA		
§ 95.6080 VOR Federal Airway V80 is Amended To Read in Part		
TYNDA, SD FIX	DOLTS, SD FIX	*4000
§ 95.6096 VOR Federal Airway V96 is Amended To Delete		
BRICKYARD, IN VORTAC	KOKOMO, IN VORTAC	2700
KOKOMO, IN VORTAC	FORT WAYNE, IN VORTAC	2600
FORT WAYNE, IN VORTAC	*TWERP, OH FIX	**5000
*5000—MRA		
**2400—MOCA		
§ 95.6097 VOR Federal Airway V97 is Amended To Read in Part		
SHELBYVILLE, IN VOR/DME	BOILER, IN VORTAC	*5000
*2900—MOCA		
§ 95.6100 VOR Federal Airway V100 is Amended To Delete		
KEELER, MI VOR/DME	LITCHFIELD, MI VOR/DME	2600
§ 95.6123 VOR Federal Airway V123 is Amended To Read in Part		
WOODSTOWN, NJ VORTAC	ROBBINSVILLE, NJ VORTAC	*3000
*2100—MOCA		
§ 95.6148 VOR Federal Airway V148 is Amended To Read in Part		
TYNDA, SD FIX	DOLTS, SD FIX	*4000
*3100—MOCA		

From	To	MEA
§ 95.6148 VOR Federal Airway V155 is Amended To Delete		
COLUMBUS, GA VORTAC *2500—MOCA	SINCA, GA FIX	*4500
§ 95.6156 VOR Federal Airway V156 is Amended To Delete		
GIPPER, MI VORTAC	KALAMAZOO, MI DME	3000
§ 95.6157 VOR Federal Airway V157 is Amended To Read in Part		
WOODSTOWN, NJ VORTAC *2100—MOCA	ROBBINSVILLE, NJ VORTAC	*3000
§ 95.6165 VOR Federal Airway V165 is Amended To Read in Part		
MARRI, CA FIX *15000—MCA MUSTANG, NV VORTAC, S BND	*MUSTANG, NV VORTAC	15000
MUSTANG, NV VORTAC *11000—GNSS MEA	PYRAM, NV FIX	*11000
§ 95.6181 VOR Federal Airway V181 is Amended To Delete		
NORFOLK, NE VOR/DME	YANKTON, SD VOR/DME	3700
YANKTON, SD VOR/DME	SIOUX FALLS, SD VORTAC	3400
§ 95.6190 VOR Federal Airway V190 is Amended To Read in Part		
GRINE, AZ FIX *7200—MOCA	PEAKS, AZ FIX	*10000
§ 95.6195 VOR Federal Airway V195 is Amended To Read in Part		
RED BLUFF, CA VORTAC *5400—MCA BURRS, CA FIX, W BND	*BURRS, CA FIX	3000
BURRS, CA FIX *7300—MCA TOMAD, CA FIX, W BND	*TOMAD, CA FIX	6200
TOMAD, CA FIX *6500—MCA YAGER, CA FIX, E BND **8300—MOCA	*YAGER, CA FIX	**8300
YAGER, CA FIX *3900—MCA FORTUNA, CA VORTAC, E BND	*FORTUNA, CA VORTAC	6100
§ 95.6213 VOR Federal Airway V213 is Amended To Read in Part		
SMYRNA, DE VORTAC *2100—MOCA	ROBBINSVILLE, NJ VORTAC	*3000
§ 95.6214 VOR Federal Airway V214 is Amended To Delete		
KOKOMO, IN VORTAC	MARION, IN VOR/DME	2600
MARION, IN VOR/DME	MUNCIE, IN VOR/DME	2800
§ 95.6222 VOR Federal Airway V222 is Amended To Read in Part		
LAGRANGE, GA VORTAC *4000—MRA	*TIROE, GA FIX	3100
§ 95.6233 VOR Federal Airway V233 is Amended To Delete		
GOSHEN, IN VORTAC	LITCHFIELD, MI VOR/DME	3000
§ 95.6235 VOR Federal Airway V235 is Amended To Read in Part		
BORGG, WY FIX *11200—MCA OILLY, WY FIX, SW BND	*OILLY, WY FIX	11500
§ 95.6241 VOR Federal Airway V241 is Amended To Delete		
EUFAULA, AL VORTAC	COLUMBUS, GA VORTAC	2400
COLUMBUS, GA VORTAC *4000—MRA	*TIROE, GA FIX	3000

From	To	MEA
Is Amended by Adding		
EUFAULA, AL VORTAC	RSVLT, GA FIX	2500
§ 95.6250 VOR Federal Airway V250 is Amended To Delete		
O'NEILL, NE VORTAC	YANKTON, SD VOR/DME	3700
§ 95.6267 VOR Federal Airway V267 is Amended To Read in Part		
CRAIG, FL VORTAC *2600—GNSS MEA	BAXLY, GA FIX	*6000
BAXLY, GA FIX *2000—GNSS MEA	DUBLIN, GA VORTAC	*3000
§ 95.6285 VOR Federal Airway V285 is Amended To Delete		
BRICKYARD, IN VORTAC	KOKOMO, IN VORTAC	2700
KOKOMO, IN VORTAC	GOSHEN, IN VORTAC	2600
GOSHEN, IN VORTAC	KALAMAZOO, MI DME	2600
KALAMAZOO, MI DME	VICTORY, MI VOR/DME	3000
§ 95.6305 VOR Federal Airway V305 is Amended To Delete		
BRICKYARD, IN VORTAC	WELDO, IN FIX	2900
WELDO, IN FIX	KOKOMO, IN VORTAC	2700
§ 95.6321 VOR Federal Airway V321 is Amended To Delete		
PREST, GA FIX *5000—MCA COLUMBUS, GA VORTAC, SE BND **3300—MOCA	*COLUMBUS, GA VORTAC	**5000
COLUMBUS, GA VORTAC	LAGRANGE, GA VORTAC	2500
Is Amended by Adding		
PREST, GA FIX *5000—MCA RSVLT, GA FIX, SE BND **3300—MOCA	*RSVLT, GA FIX	**5000
RSVLT, GA FIX	LAGRANGE, GA VORTAC	2700
§ 95.6402 VOR Federal Airway V402 is Amended To Read in Part		
MOSER, TX FIX *7000—MRA **5500—MOCA	*SIDER, TX FIX	**6000
SIDER, TX FIX *5500—MOCA	PANHANDLE, TX VORTAC	*6000
§ 95.6456 ALASKA VOR Federal Airway V456 is Amended To Read in Part		
TANIE, AK FIX *1600—MOCA	KING SALMON, AK VORTAC	*5000
§ 95.6531 Alaska VOR Federal Airway V531 is Amended To Delete		
KOTZEBUE, AK VOR/DME SE BND *2500 NW BND *8000 *2500—MOCA	BERJO, AK WP.	
BERJO, AK WP *4000—MOCA	POINT HOPE, AK NDB	*8000
§ 95.6621 Alaska VOR Federal Airway V621 is Amended To Delete		
BARROW, AK VOR/DME	ATQASUK, AK NDB	2000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7037 Jet Route J37 is Amended To Delete**			
HARVEY, LA VORTAC	SEMMES, AL VORTAC	18000	45000
SEMMES, AL VORTAC	MONTGOMERY, AL VORTAC	18000	45000
LYNCHBURG, VA VOR/DME	GORDONSVILLE, VA VORTAC	18000	45000

From	To	MEA	MAA
GORDONSVILLE, VA VORTAC	BROOKE, VA VORTAC	18000	45000
BROOKE, VA VORTAC	NALES, DE WP	18000	31000
NALES, DE WP	COYLE, NJ VORTAC	18000	45000
KENNEDY, NY VOR/DME	KINGSTON, NY VOR/DME	18000	45000
KINGSTON, NY VOR/DME	ALBANY, NY VORTAC	18000	45000
§ 95.7055 Jet Route J55 is Amended To Delete			
TUBAS, NC FIX	RALEIGH/DURHAM, NC VORTAC	18000	45000
RALEIGH/DURHAM, NC VORTAC	HOPEWELL, VA VORTAC	18000	45000
HOPEWELL, VA VORTAC	HUBBS, VA WP	18000	20000
SEA ISLE, NJ VORTAC	HAMPTON, NY VORTAC	18000	45000
HAMPTON, NY VORTAC	PROVIDENCE, RI VOR/DME	18000	45000
PROVIDENCE, RI VOR/DME	BOSTON, MA VOR/DME	18000	45000
BOSTON, MA VOR/DME	KENNEBUNK, ME VOR/DME	18000	45000
KENNEBUNK, ME VOR/DME	PRESQUE ISLE, ME VOR/DME	19000	45000
§ 95.7079 Jet Route J79 is Amended To Delete			
CHARLESTON, SC VORTAC	TAR RIVER, NC VORTAC	18000	45000
TAR RIVER, NC VORTAC	FRANKLIN, VA VORTAC	18000	45000
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	18000	45000
SALISBURY, MD VORTAC	KENNEDY, NY VOR/DME	18000	45000
KENNEDY, NY VOR/DME	CUJKE, MA WP	18000	45000
CUJKE, MA WP	MARCONI, MA VOR/DME		UNUSABLE
MARCONI, MA VOR/DME	BANGOR, ME VORTAC	18000	45000
§ 95.7121 Jet Route J121 is Amended To Delete			
CHARLESTON, SC VORTAC	KINSTON, NC VORTAC	18000	45000
KINSTON, NC VORTAC	NORFOLK, VA VORTAC	18000	45000
NORFOLK, VA VORTAC	SNOW HILL, MD VORTAC	18000	45000
SNOW HILL, MD VORTAC	SEA ISLE, NJ VORTAC	18000	45000
SEA ISLE, NJ VORTAC	BRIGS, NJ FIX	18000	45000
§ 95.7174 Jet Route J174 is Amended To Delete			
CHARLESTON, SC VORTAC	WILMINGTON, NC VORTAC	18000	45000
WILMINGTON, NC VORTAC	DIXON, NC NDB	18000	45000
DIXON, NC NDB	NORFOLK, VA VORTAC	18000	45000
NORFOLK, VA VORTAC	SNOW HILL, MD VORTAC	18000	45000
SNOW HILL, MD VORTAC	YAZUU, NJ WP	18000	45000
YAZUU, NJ WP	HAMPTON, NY VORTAC		UNUSABLE
HAMPTON, NY VORTAC	MARCONI, MA VOR/DME		UNUSABLE
MARCONI, MA VOR/DME	HERIN, MA WP		UNUSABLE
§ 95.7191 Jet Route J191 is Amended To Delete			
HOPEWELL, VA VORTAC	WILMINGTON, NC VORTAC	18000	45000
§ 95.7055 Jet Route J209 is Amended To Delete			
RALEIGH/DURHAM, NC VORTAC	TAR RIVER, NC VORTAC	18000	45000
TAR RIVER, NC VORTAC	NORFOLK, VA VORTAC	18000	45000
NORFOLK, VA VORTAC	SALISBURY, MD VORTAC	18000	45000
SALISBURY, MD VORTAC	COYLE, NJ VORTAC	18000	45000
COYLE, NJ VORTAC	WHITE, NJ FIX	18000	45000

Airway segment changeover points

From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point V195 is Amended To Add Changeover Point			
RED BLUFF, CA VORTAC	FORTUNA, CA VORTAC	58	RED BLUFF
V20 is Amended To Delete Changeover Point			
MONTGOMERY, AL VORTAC	TUSKEGEE, AL VOR/DME	30	MONTGOMERY
Alaska V531 is Amended To Delete Changeover Point			
KOTZEBUE, AK VOR/DME	POINT HOPE, AK NDB	116	KOTZEBUE

Airway segment changeover points			
From	To	Distance	From
§ 95.8005 Jet Routes Changeover Points			
J37 is Amended To Delete Changeover Point			
KENNEDY, NY VOR/DME	KINGSTON, NY VOR/DME	37	KENNEDY
J55 is Amended To Delete Changeover Point			
BOSTON, MA VOR/DME	KENNEBUNK, ME VOR/DME	38	BOSTON
J79 is Amended To Delete Changeover Point			
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	20	FRANKLIN
J121 is Amended To Delete Changeover Point			
CHARLESTON, SC VORTAC	KINSTON, NC VORTAC	128	CHARLESTON
SNOW HILL, MD VORTAC	SEA ISLE, NJ VORTAC	20	SNOW HILL
J174 is Amended To Delete Changeover Point			
SNOW HILL, MD VORTAC	HAMPTON, NY VORTAC	106	SNOW HILL
J209 is Amended To Delete Changeover Point			
NORFOLK, VA VORTAC	SALISBURY, MD VORTAC	42	NORFOLK

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DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 90

[Docket Number: 230313–0072]

RIN 0607–AA60

Population Estimates Challenge Program

AGENCY: Census Bureau, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census (Census Bureau) amends the regulations for the Population Estimates Challenge Program which will provide eligible general-purpose governmental entities (local governments) with the opportunity to file requests for the review of their population estimates for 2021 and subsequent years in forthcoming estimates series, beginning with the Vintage 2022 series that is scheduled to be published in 2023. Under this program, a governmental unit may file a challenge to its official population estimate by submitting additional data to the Census Bureau for evaluation, or by identifying a technical error in processing input data or producing the estimates. Specifically, the Census Bureau amends its regulations to update the regulation's references pertaining to the input data which are used to produce the official population estimates and revise the evidence required to support a challenge. In this final rule, the Census Bureau responds to comments received during the public comment period—closed on December 22, 2022—on the notice of proposed rulemaking posted in the **Federal Register** pertaining to ways in which the Population Estimates Challenge Program might be improved.

DATES: This final rule is effective on April 24, 2023.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Amel Toukabri, Chief, Local Government Estimates and Migration Processing Branch, Population Division, 301–763–2461 or *POP.challenge@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau typically releases annual population estimates, in accordance with Title 13 of the United States Code (U.S.C.). These estimates are typically based to some extent upon the most recent Decennial Census of Population and Housing and compiled from the most current administrative and survey data available for that purpose. Although not required by any statute, the Census Bureau also typically offers an opportunity for local units of general-purpose government (hereinafter collectively ''governmental unit'') to challenge these official estimates through its Population Estimates Challenge Program. Under this program, a governmental unit may challenge its population estimate by submitting additional data to the Census Bureau for evaluation, or by identifying a technical error in processing input data or producing the estimates. If the additional data are accepted during the review period by the Census Bureau, resulting in an updated population estimate, the Census Bureau will provide a written notification to the governmental unit and publish the revised estimate at *www.census.gov.* If the additional data are not accepted for a revised estimate, the Census Bureau will notify the governmental unit. In the challenge process, the Census Bureau will only accept a challenge when the evidence provided indicates the use of incorrect data, processes, or calculations in the estimates.

In this final rule, the Census Bureau amends its regulations to: (1) update the regulation's references pertaining to the input data which are used to produce the official population estimates, and (2) revise the evidence required to support a challenge.

The Census Bureau also solicited comments from the public about ways in which the program might be improved. In particular, the Census Bureau welcomed comments about (1) the methodology used in preparing the annual Population Estimates, (2) the sources of data that the agency considers (or does not consider) in preparing the annual Population Estimates, and (3) what sorts of factual

or methodological arguments the agency considers (or does not consider) in evaluating a potential challenge.

Based on the public comments received, the Census Bureau is amending its final rule to: (1) retain the flexibility to accept a physical copy of challenge materials rather than exclusively accepting digital challenge submissions; and (2) increase communication with localities by encouraging the appropriate Federal State Cooperative for Population Estimates (FSCPE) members to serve as conduits with local governments in the review of pre-release estimates, to the extent that this is possible given data confidentiality requirements for pre-release data. Furthermore, to the extent that research findings indicate that additional recommendations/changes support the development of accurate estimates and ensure equity for all general-purpose governmental units, the Census Bureau is open to expanding the scope of the Challenge Program. Nonetheless, this is contingent on the Population Estimates Program (PEP)'s programmatic capacity, future research priorities, and the outcome of such research. For the reasons explained below, at least at this time, the Census Bureau is not implementing the comments that advocated for an expansion of the Program (*e.g.,* the use of more flexible methodology, a wider range of data sources to support a challenge, and removal of the county control). The Census Bureau intends, however, to study more closely the issues raised in those comments, and commits to conducting future research that will allow for regular enhancement of the current methodologies, and which would improve both the accuracy of the population estimates and the Challenge Program.

Currently, the Census Bureau begins the process of preparing population estimates by updating population information from the most recent decennial census and other sources with information found in the annual administrative records of Federal and State agencies. The Federal agencies provide tax records, Medicare records, and some vital records and group quarters information. The FSCPE members, designated by their respective governors to work in cooperation with the Census Bureau's Population Estimates Program to produce population estimates, also supply vital statistics and information about group quarters like college dorms or prisons.[1] The Census Bureau combines census base data, administrative records, and selected survey data (*e.g.,* data from the American Community Survey, American Housing Survey, and the Building Permit Survey) to produce current population estimates that usually begin with the last decennial census. Additionally, the Census Bureau's general-purpose governmental units' population estimates are provided to the FSCPE agencies in preliminary form for review and comment to resolve data processing issues identified during that period. For the purposes of this program, the District of Columbia is treated as a statistical equivalent of a county and, therefore, is eligible to participate.

A major priority for the Census Bureau is balancing the need to use the 2020 Census counts at the lowest level of estimates geography as the starting point in estimates production with the statutory obligation to protect the respondents' confidentiality at every stage of the data lifecycle. Since the 1990 Census, the Bureau has added ''noise''—or variations from the actual count—to the collected data to ensure privacy and confidentiality. For 2020 Census data, the Census Bureau applied noise using a newer disclosure avoidance technique based on ''differential privacy.''[2] The Census Bureau uses a housing unit method to distribute a county population to places within its legal boundaries. The components in this method include housing units estimates, average household population per housing unit, and an estimate of the population in group quarters. The estimation formula was simplified to increase the accuracy of the estimates and minimize the impact of differential privacy on the population estimates by reducing the number of components requiring privacy protection used to generate population estimates. Consequently, the occupancy rate and Persons Per Household (PPH) previously used in this method were replaced with the average household population per housing unit. The household population and the group quarters population used in the calculation of the estimate are the only two components subject to differential privacy protection compared to the prior three components—occupancy rate, PPH, and group quarters population—that would have otherwise required privacy protection. Therefore, the PPH and occupancy rate components are no longer inputs used to produce those population estimates. The distributive housing unit equation used to calculate the population estimates for governmental units is simplified to accommodate the application of the disclosure avoidance technique prior to releasing the estimates. As a result, the Census Bureau amends 15 CFR part 90 to revise: (1) the regulation's references pertaining to the input data which are used to produce the official population estimates, (2) where to file a challenge, and (3) the evidence required to support a challenge. These changes are captured in the updates to §§ 90.2, 90.7, and 90.8.

Previously, the Census Bureau published a final rule on January 9, 2020, in the **Federal Register** (85 FR 1100) to announce that the Census Bureau would temporarily suspend the Population Estimates Challenge Program to accommodate the taking of the 2020 Census and subsequent review and evaluation activities. Efforts to resume the program were delayed in response to the changes to the operational schedule for the 2020 Census which occurred due to the impacts of the COVID–19 pandemic. The Census Bureau followed the suspension of the Population Estimates Challenge Program with two **Federal Register** documents published on November 22, 2022. A document was posted in the **Federal Register** (87 FR 71240), entitled ''Resumption of the Population Estimates Challenge Program,'' which resumed the suspended program to provide eligible entities the opportunity to file requests for the review of population estimates for 2021 and subsequent years beginning with the Vintage[3] 2022 series that is scheduled to be published in 2023. That rule also made clear that challenges to previous estimates series (for which the 90-day limitations period set forth in 15 CFR 90.6 had long since elapsed) would not be accepted. The resumption document did not implement revisions to the program or its requirements. On November 22, 2022, the Census Bureau published another notice of proposed rulemaking in the **Federal Register** (87 FR 71269) for its program, entitled ''Resumption of the Population Estimates Challenge Program and Proposed Changes to the Program.'' In that announcement, the Census Bureau solicited comments from the public about ways in which the program might be improved.

[1] *https://www.census.gov/programs-surveys/popest/about/fscpe.html.*

[2] For more information about the differential privacy technique, visit Understanding Differential Privacy (*census.gov*).

[3] Annually, PEP revises and updates the entire time series of estimates from April 1, 2020 to July 1 of the year for which the estimates are published which is referred to as the vintage year. The term ''vintage'' is used to denote the entire time series created with a consistent population starting point and methodology.

The proposal was available for comment during a 30-day period that ended on December 22, 2022. The Census Bureau has now reviewed these comments and responded to them in this final rule.

Summary of Comments and Responses

The Census Bureau received 13 comments during the comment period pertaining to 11 separate topics. The contents of these recommendation received can be categorized according to a few main themes: (1) improving the Population Estimates Challenge process; (2) allowing the use of more flexible methodologies and a wider range of sources of data in both preparation of the annual population estimates and in challenge submissions, while increasing experts' participation such as through additional involvement from the FSCPE; and (3) investing in continuous research to improve the accuracy of the population estimates with a focus on the estimates base and the group quarters population. A summary of these comments and the detailed responses by the Census Bureau are provided below:

Comments Theme: Population Estimates Challenge Program Rulemaking

Topic 1. An Expansion of the Scope of the Challenge Program

Several commenters favored a challenge program that actively encourages participation and is open to considering a wider variety of data sources than is currently accepted. Many suggested that the program accept data sources typically available to or curated by localities, such as (but not limited to) electric utilities, address lists, public school enrollment data, and local property tax records. Yet, these commenters also noted that an expanded challenge program will stretch the capacity of PEP.

Commenters also acknowledged that revisions based on local government input or alternative methodologies do not always improve estimation accuracy, and so standards need to be maintained for accepting data in support of challenges. As an example of such criteria, it was recommended that the Census Bureau consider whether the alternative population estimate is developed by ''a methodology and/or data set that appears in and is used consistently within the applied demography literature?'' Then, in instances where that is not the case, ''does the locality provide research on the validity of that data set and why this methodology works better, and do applied demographers (at the Census Bureau or elsewhere) agree with the findings?''

Even if a revision improves accuracy, commenters cited the potential for it to introduce other issues, such as questions of equity: challenges are issued seeking a higher population estimate, but not all jurisdictions have the resources to file a challenge and identify the necessary supporting evidence. Thus, governments with the resources to challenge could be in a position to receive greater shares of population and corresponding funding, possibly to the detriment of jurisdictions that do not challenge, perhaps due to fewer resources (*e.g.,* many localities lack the technology, infrastructure, and/or expertise needed to compile, analyze, and present data in a manner that meets the foregoing requirements). Commenters emphasized that an expanded challenge program needs to be mindful of such concerns.

Response 1.

The Census Bureau recognizes that potential expansion of the scope of the Population Estimates Challenge Program could be beneficial, although specific changes are contingent on PEP's future research priorities and findings. Furthermore, PEP not only maintains that methodologies considered should be consistent with or advance applied demography literature, but also acknowledges the efficacy of engaging and sharing findings with outside experts to enhance PEP's challenge decision-making process. As we define and progress in research impacting the Challenge Program, this will be a priority for PEP.

PEP is open to expanding the scope of the Challenge Program where science indicates that such changes support more accurate estimates and ensure equity for all general-purpose governmental units and the public. The Census Bureau is also considering alternative data sources, including administrative records, and methodologies for estimates production. This work is being led by the Base Evaluation and Research Team (BERT), which is tasked with researching the feasibility of taking coverage measures and/or administrative data into account in the development of the estimates base. Accordingly, the Census Bureau will explore the issues raised in the comments more closely in the future and will continue to consider possible ways to improve the Challenge Program. Until the results of these efforts suggest revisions to our approach, we foresee no changes in response to these comments at this time.

Topic 2. Challenge Process Recommendations

Comment 2.1 One commenter expressed concern that the proposed changes to the Challenge Program would require that jurisdictions file challenges solely through email and would eliminate the option of submitting a ''hard copy'' of challenge materials through the U.S. postal service or some similar delivery option. The commenter urged the bureau to retain the latter option on behalf of localities that still lack email access through broadband technology and are thus unable to electronically send large document files quickly and easily—particularly in remote or rural areas of the country.

Response 2.1 The Census Bureau will still maintain the ability to receive a hard copy of challenge materials through the U.S. postal service, recognizing the need to retain the option of submitting a physical copy, rather than exclusively accepting digital submissions.

Comment 2.2 Many commenters commended the Census Bureau for explicitly specifying in the proposed regulations that a phone number and email address will be provided for questions that localities may have about the Challenge Program. They also urged the Census Bureau to ensure that there is sufficient staffing to provide prompt responses through either of these modes to inquiries made by localities.

Response 2.2 The Challenge Program staff in PEP prioritizes the experience of localities and the challenge process and routinely responds to inquiries (*i.e.,* email, written requests, or telephone calls) in a timely manner. Additionally, as part of our commitment to continuous improvement, we will seek opportunities to further streamline the process of responding through all available modes.

Comment 2.3 Several commenters indicated that a more robust and improved population estimates challenge process would likely result in a higher volume of requests. Thus, the commenters stated that the Census Bureau must provide the necessary resources, including adequate staffing, to meet this need. In any event, the Census Bureau should not be in a position to use lack of staffing or staffing hours as a reason for limiting appeals moving forward.

Response 2.3. The Census Bureau concurs that increases in the challenge process will lead to incremental stresses on existing capacity. Consistent with our continuous improvement activities,

we are reviewing both the response process and resource flexibilities to facilitate the processing and turnaround time of a challenge while retaining the integrity of the challenge review process.

Comment 2.4 Numerous commenters also recommended a ''change in nomenclature'' to replace Challenge Program, which described as an ''adversarial term.'' To represent that successful challenges are the result of a cooperative partnership with local stakeholders to improve population estimates, a term that reflects the spirit of cooperation engendered by the new program should be used. One such suggestion was ''Improvement Program.''

Response 2.4 The Census Bureau acknowledges that successful challenges should be properly viewed as the result of a cooperative partnership with local stakeholders to improve population estimates. However, the current name of the *Population Estimates Challenge Program* encompasses a longstanding relationship and history, and so alternatives—as well as the best means to potentially transition to a new name for the program—must be carefully considered. For example, a name change might make it difficult for local governments to easily find the necessary information if they are interested in challenging their population estimates, particularly the ones with fewer resources. We will include this possibility in future discussions with stakeholders and the public to determine the feasibility and benefit of this proposed change.

Comment 2.5 Commenters were also concerned that the 30-day comment period on the proposed regulations was too short, preferring at least 60 days for comment on an issue of this significance, arguing that a longer comment period would have enhanced the quality of feedback and helped demonstrate a more consistent approach to advancing stakeholder engagement.

Response 2.5 Although a longer comment period would have been more convenient for some, it was not possible to extend the comment period without jeopardizing PEP's ability to process and respond to comments received and subsequently update program materials accordingly in advance of the release of the upcoming Vintage 2022 county population estimates, which will be subject to challenge within 90 days of their release.

Comment 2.6 Other commenters stated that with more resources and by embedding the call for feedback on methodology and data sources into the challenge program, there would be more opportunities to raise awareness of alternative methods and data sources and implement methodology changes to improve the estimates program.

Response 2.6 The Census Bureau recognizes the importance of providing a mechanism for methodological feedback and input on data sources. So as to enable the Challenge Program staff to focus their time on processing challenges according to the program guidelines in place at that time, the Census Bureau is ensuring that this type of feedback may be shared via other means. In particular, BERT has created a dedicated email address, *pop.bert@census.gov*, to provide stakeholders with an avenue for sharing ideas relating to alternative data sources or methodologies. This email address is currently active and will be advertised to localities as a destination for data and methodology suggestions relevant to their specific area.

Comment 2.7 Multiple commenters recommended that the FSCPE members more directly serve as conduits with local governments in the review of estimates in a pre-release format and to coordinate challenges. To more effectively have direct rather than secondary input into the production and review of the data, it was stated that FSCPE State representatives should have Special Sworn Status.

Response 2.7 The Census Bureau has already been actively consulting with the FSCPE member agencies regarding the Challenge Program. Additionally, PEP encourages the appropriate FSCPE members to serve as conduits with local governments in the review of pre-release estimates, to the extent that this is possible given data confidentiality requirements for pre-release data. A Memorandum of Agreement governs the partnership between the Census Bureau and the State agencies. The current agreements are set to expire in 2024, at which point it is anticipated that the agreements will be revised and renewed. During that renewal process, PEP will initiate discussions about the feasibility, expectations and responsibilities of the Census Bureau and the FSCPE members pertaining to annual data review.

Comment 2.8 Many of the commenters recommended that the Census Bureau keep external partners apprised of challenge requests that are occurring, decisions that have been made on challenges, and areas of concern about the challenge process on a regular basis, suggesting that this information sharing occurs through presentations to the Census Scientific Advisory Committee (CSAC). They also advised the Census Bureau to increase its communications about the challenge process to be more inclusive of all governmental units (especially small towns and cities), supporting the recent recommendation by the CSAC that the Census Bureau conduct webinars on the ability of local governments to improve statistics by partnering with the Census Bureau in the Population Estimates Challenge Program and Special Censuses.

Response 2.8 The Census Bureau concurs with this recommendation. PEP strives to make timely information readily available to its State partners in the FSCPE via the regular monthly meetings of the Steering Committee, Research and Methods Subcommittee, and Data Input Subcommittee, in addition to the twice-yearly meetings with the full membership. It has been the practice of the Challenge Program to keep the FSCPE members aware of any challenge requests in their States and to officially share the challenge outcomes. We plan to continue with this practice and further expand the outreach to other interested stakeholders, such as the CSAC via briefings and presentations. Another venue PEP is exploring to improve communication is the development of a video which would walk local governments through the process of submitting a challenge, and which would be supplemental to the Population Estimates Challenge Program Guide already made available on its website (*www.census.gov*).

Topic 3. Subcounty Estimation Formula and Updates to the Persons-per-Household and Occupancy Rates

At the subcounty level, numerous commenters argued that the Census Bureau's recent decision to eliminate vacancy [occupancy] and person-per-household (PPH) rates by combining them into ''average population per housing unit'' is inconsistent with the literature on how to produce accurate population estimates. They recommended that the Census Bureau reverse this decision.

One commenter urged the Census Bureau to ensure that the replacement in the estimation formula of the PPH and occupancy rate components with the average household population per housing unit does not have a detrimental impact on the accuracy of estimates produced for localities with undercounted populations and inform the public of analyses that demonstrate that outcome.

Additionally, several commenters recommended that the Census Bureau should allow cities and other governmental units to challenge the April 1, 2020 population base used for

the annual estimates with all relevant, reliable data, especially with respect to housing occupancy/vacancy and PPH rates. Furthermore, many commenters recommended that the Bureau should accept revisions to these components as part of the Challenge Program if a locality can provide reasonable and sufficient evidence of change.

The recommendations suggested some methods that the Census Bureau may research in order to develop post-Census Day PPH and occupancy components, such as the expanded, modeled, or indexed use of IRS filer and exemption data at the sub-county (place or minor civil division) level; the use of local street address listings or local annual town Censuses, where available; USPS data; and the use of other State or local administrative records, including school or program enrollment information; or other high-quality data sources.

Response 3.

PEP combined the occupancy and PPH components to adhere to the Census Bureau's modernized disclosure avoidance requirements which are designed to protect the confidentiality of respondents. By combining PPH and occupancy into the average population per housing unit, the number of terms in the distributive housing unit equation subject to the application of differentially private noise was minimized, subsequently minimizing the impact of the noise on the estimates and maximizing their overall accuracy.

Furthermore, whereas PEP recognizes that the ''*average household population per housing unit*'' ratio may not be a standard demographic measure, the new formula is mathematically equivalent to the old version where the ''*Occupied Housing Units total*'' in the first numerator and second denominator in line (2) shown below cancel each other out. Thus, the formula in use is a simplified version of the previous formula which no longer requires housing characteristics measures such as the occupancy and PPH. Replacing the PPH and occupancy rate with the ''*average household population per housing unit*'' does not structurally change the formula; therefore, the replacement will not introduce additional error to the population estimates.

Where:

$SUBCO\ RESPOP_t$: Subcounty resident population total at time t

HU_t: Housing unit total at time t

$OCC\ Rate_{Base\ year}$: Occupancy Rate at base year

$HHPOP_t$: Household population total at time t

$GQPOP_t$: Group quarters population total at time t

Consequently, there is no foundation for the commenter's concern as both the previous and updated equations result in the same subcounty household population value for a specific subcounty area.

Although occupancy rates and PPH no longer factor into the calculation of subcounty population, PEP will consider conducting research on whether local PPH and occupancy data may be submitted in a subcounty challenge as an alternative to the 2020 Census household population per housing unit ratio used in the distributive household equation. Pending the research findings, this could be a potential mechanism to challenge the data in the April 1, 2020 population estimates base. Beyond that, the possibility of challenging the estimates base at the subcounty level would be contingent on identifying alternative sources of data which were of sufficient quality to serve as replacements for the other population components drawn from the Census results.

At the county level of geography and above, it is not feasible to break down the base population into challengeable components, as it is created by integrating results from the 2020 Census, 2020 Demographic Analysis estimates, and Vintage 2020 estimates. As such, challenges to the *population estimates base* must remain out of scope.

The Census Bureau appreciates the research ideas contributed by the commenters. To enhance the accuracy and reliability of the subsequent estimates, and to contribute to a longer-term goal of continuous improvement in the estimation processing, PEP will explore the practicability of the suggested research topics.

Topic 4. Re-Evaluate the Use of the County Control and Revisit HUBERT Research

Numerous commenters recommended that the Census Bureau re-evaluate the use of the county control (or what some commenters referred to as a ''county cap'') when processing sub-county population estimates challenges. Some argued that adhering to the control creates a situation whereby governments with the resources to successfully challenge receive greater shares of population and resultant funding, to the detriment of jurisdictions that do not challenge, perhaps because they have fewer resources.

Various commenters suggested that research led by the Census Bureau's Housing Unit-Based Research Estimates Team (HUBERT) in 2007 to 2008 be revisited and updated. This research program assessed whether, for some counties, a housing unit-based method of calculating population change at the county level was more effective than the cohort-component method used by the Census Bureau. The commenters highlighted how the Census Bureau has relied on the HUBERT research for many of its current decisions about data and methods used in the production of its annual population estimates.

Pending an update of the HUBERT research, several commenters recommended that the Census Bureau utilize the findings from the original HUBERT research to:

- identify the 30% of counties that were more accurately estimated using HUM than the cohort-component approach;
- identify the characteristics of the counties that are better estimated by the HUM; and
- use that information to classify all counties and apply the method that is more accurate for each county type.

Response 4.

The Census Bureau recognizes that more current, in-depth research is needed to reevaluate the use of the county control for the incorporation of successful challenges. While no changes in response to this comment are being made at this time, PEP plans to update HUBERT research with current data and examine the impact of the county control to inform future changes to the methodology. When possible, PEP intends to research the feasibility and logistics of this change to ascertain if it is methodologically sound, including soliciting input from our FSCPE partners.

Comments Theme: Population Estimates Program

Topic 5. Investing in the Population Estimates Program and Ongoing Stakeholder Input

Numerous commenters stated that PEP has limited capacity to execute much needed, updated research. Therefore, they proposed an expansion and additional investment in PEP and in the FSCPE partnership. Many commenters urged the Census Bureau to make improving the population estimates a high priority and work to increase the resources necessary by reallocating or requesting additional resources to support a continuous year-round estimates research program throughout the decade.

Several commenters also advised to build and maintain collaborative

relationships throughout the decade with State, local and Tribal governments to take in additional anonymized official datasets to improve the estimates, and to seek ongoing stakeholder input, both from government entities as well as from other organizations.

Many commenters recommended that the Department of Commerce provide a modest level of direct funding to every FSCPE representative so that every State can participate. At present, the effort is defined by a Memorandum of Agreement under which some States fund their participation, while others do not. This arrangement leads to some States participating actively in the FSCPE and others participating at extremely low levels or not at all.

Response 5.

The Census Bureau concurs with the importance of ensuring continuous research on population estimates related topics throughout the decade. In fact, planning and conducting prioritized research on an annual basis are ingrained in PEP's mission and construct a vital phase typically carried out after the conclusion and release of population estimates series, and before the new estimates production cycle starts. This yearly research cycle has been and will continue to be a priority for PEP, allowing for regular enhancement of the current methodologies used to improve the population estimates' accuracy, while approving a limited number of research topics to work on annually that are manageable by PEP and defer the remaining list of research topics to future years.

The Census Bureau acknowledges the value and significance of the partnership with FSCPE State agencies and their role in producing high-quality estimates products. The Census Bureau also concurs that it would be beneficial to engage with the FSCPE partners to explore creative and effective means to benefit from their local knowledge and suggestions, beyond what is currently done. PEP believes that the efficacy of the partnership is enhanced by robust participation across the country.

PEP continues to explore ways to enhance outreach and increase current States' participation through the FSCPE partnership to provide local data inputs that are consistent with PEP's current methodologies for use in the annual estimates production such as housing unit components of change, vital statistics records, and group quarters reporting. For example, PEP will collaborate with more active States and seek input from less active States to identify options to encourage more participation. Additionally, PEP has created an email address associated with the BERT research—*pop.bert@census.gov*—which could be advertised to localities as a destination for data and methodology suggestions relevant to their specific area.

Topic 6. Ways To Improve the Population Estimates

Some commenters recommended that the Census Bureau consider more flexible methodologies (*e.g.,* allow for probabilistic modeling in addition to demographic accounting methods) and broader use of administrative data to ensure meaningful opportunities to improve the accuracy of the estimates including appropriate improvements to the estimates base. Several commenters specifically recommended that ''the Census Bureau move from using just one method to estimate the total population of States and counties (cohort component method), to using multiple methods to produce the State and county estimates more accurately.'' They also suggested that ''the Census Bureau allow targeted, localized methods that do not apply to the entire country if they improve local accuracy.'' At the subcounty level, some commenters recommended the Census Bureau use its new research on *Construction Starts*[4] based on artificial intelligence and satellite imagery as inputs for the number of housing units in HUM[5] estimates.

Many commenters recommended that the Census Bureau conduct research on the efficacy of Internal Revenue Service (IRS) return data in reflecting overall migration patterns. They also suggested ''researching the use of United States Postal Service Change of Address data for permanent moves to be incorporated into the estimated migration rates.''

Response 6.

The Census Bureau's ability to implement flexible/multiple methodologies and the use of a broader array of data sources is contingent upon two major components: first, ensure the capacity to conduct research on the proposed methodology and adhere to PEP's scientific and methodological principles; and second, the outcome of the methodological research. New methods must be found to be sound (based on solid reasoning respectful of the attributes of the input data as they relate to the estimation tasks), accountable (understandable and replicable), robust (insensitive to small departures from assumptions, reasonably accurate under changing demographic conditions), parsimonious (reflecting a simpler strategy versus a more complex one whenever possible), and to produce valid results.

Given the vast range of individual geographies for which PEP produces estimates, we prefer methods and data that can be applied to entities across a geographic or multiple geographic levelsbased on the principle of parsimony and the accuracy and equity of the results. This is an important distinction because it underscores how differential methods across a geographic level are significantly labor-intensive to incorporate and require substantially longer time so as to enable PEP to research and test alternative methods and data to ensure equitable accuracy of population estimates across geographies).

PEP will research the feasibility and logistics of alternative methods, including investigating how new and current research taking place at the Census Bureau, such as the efforts underway to modernize construction indicators, can be leveraged to improve the accuracy and reliability of the estimates. Accordingly, although no changes in response to this comment are being made at this time, the Census Bureau will continue to conduct research and consider possible ways to improve the Challenge Program and population estimates.

Assessing the quality of the data is of the utmost importance in PEP's estimates production cycle. Therefore, PEP first evaluates time series of IRS filing statistics to identify any data quality issues that need to be addressed. PEP already makes use of the United States Postal Service (USPS) National Change of Address (NCOA) data as a benchmark to assess the quality of the IRS-based migration rates, and to validate permanent moves. Additionally, PEP compares migration trends between IRS and NCOA data to capture changes in domestic migration patterns across the country and particularly in disaster-hit counties.

Topic 7. The Estimation of Group Quarters Population

Some commenters specifically supported PEP's ongoing research on alternative methods and data sources as it pertains to the estimation of group quarters populations. One of the commenters echoed the recent recommendation by the CSAC that the Census Bureau should collect group quarters lists by individual facility and include capacity and attendance information from FSCPE members for

[4] Econ Current Surveys Update Construction Re-engineering (*census.gov*).

[5] HUM: Distributive housing unit-based methodology, which is used by PEP to produce subcounty population estimates.

the estimates base and throughout the decade.

Response 7.

The Census Bureau welcomes and concurs with the suggestion of continuous research on alternative methods and data sources for the estimation of the group quarters population. For instance, the 2020 Post-Census Group Quarters Review (PCGQR) operation—unique to this decade—was created in response to public feedback to improve the counts of specific GQs. This program improves the accuracy of the GQ population in the estimates base: if the PCGQR review process finds discrepancies in these population counts supported by sufficient documentation, approved revisions to the group quarters population are provided to PEP. These updates are incorporated into the base population for upcoming vintages of estimates, as the production schedule allows.

Additionally, the Census Bureau concurs with the recommendation to coordinate with the FSCPE regarding contents of their future Group Quarters Report data that they provide to PEP on an annual basis.

Topic 8. Re-Evaluate the ''College Fix'' in Estimates Production

Referencing the current methodology for the annual population estimates, two commenters encouraged the Census Bureau to re-evaluate the criteria used for ''College Fix'' counties. PEP's application of a ''college fix'' in the estimates is used to improve the estimates for counties with high shares of college-enrolled population, which would otherwise erroneously be ''aged forward'' within the cohort-component methodology. Instead, the ''college fix'' allows this population to be replaced each year by the newly incoming students, producing a more demographically reasonable age structure for that population. The commenters note that this adjustment is particularly needed because the sources used to directly capture migration in the estimates, namely IRS data, have proven less effective for capturing the migration of college-aged cohorts—''a phenomenon that is easily demonstrated by looking at Census-to-Census survival of these cohorts as versus populations estimated using IRS data.''

Response 8.

The Census Bureau concurs with the recommendation to re-evaluate the College Fix criteria and overall method to ensure the reasonableness of the resulting population estimates for affected counties. Therefore, to contribute to a longer-term goal of continuous improvement in the estimation processing, PEP will seek to include this research on the College Fix.

Comments Theme: Coverage and Improving Census Base Population

Topic 9. Inaccurate Estimates Due to Undocumented Immigration

The commenter stated that ''the U.S. Census will continue to be inaccurate as long as there is uncontrolled illegal immigration due to the wide-open southern border,'' referencing ''thousands of 'got-aways' in 2022 alone.'' The comment asserts that these individuals secure alternative living situations which result in their omittance from the census count. Additionally, the commentor maintains that the U.S. Census limits data collection to ''safe suburban environments'' to the exclusion of ''urban, violent areas,'' leading to inaccurate population counts for cities.

Response 9.

The goal of the Census Bureau is a complete and accurate census. The U.S. Constitution requires the census to count every resident in the nation. During the 2020 Census, the Census Bureau went to great lengths to count everyone, including people residing in housing units, including apartments and mobile homes; people in complex living situations; people who live or stay in a group living arrangement; and those experiencing homelessness. This included counting people where they received services, outdoors, and at other locations where they are known to sleep. The Census Bureau understood that many noncitizens were fearful that participating in the census could expose them and their families to harm, so the bureau continued working with trusted voices in local communities to encourage people to participate. We also hired locally, and our staff collectively spoke dozens of languages.

The Census Bureau's Community Partnership and Engagement Program (CPEP) had 18 distinct initiatives that further enhanced focus on historically hard-to-count populations. One of those initiatives was the Foreign-Born and Immigrant Program. The CPEP specialists were placed locally on the basis of low-response score and population density. The specialists focused on local engagement and outreach, and specialized in languages specific to historically hard-to-count populations in their local community. The 2020 Census was the first census where everyone could respond online, by phone, or by mail. Census takers made in-person visits to every household that did not respond via one of these methods to make sure people who lived there were counted. These visits were made across the country, in all of the urban, suburban, and rural areas where people live. The Census Bureau also conducted a robust Integrated Communications Campaign to reach everyone living in the United States with information on how the 2020 Census was easy, safe, and important. The cornerstone of this effort was a research-based communications campaign that covered all levels of geography.

As a result, the findings from the Census Bureau's official coverage evaluations indicate that young children aged 0 to 4, the Black or African American population, the American Indian and Alaska Native population—especially on reservations—and the Hispanic population were likely undercounted in the 2020 Census. The Census Bureau takes these findings very seriously and is working to mitigate these issues in the 2030 Census. For example, in 2022, the Census Bureau formed the Young Children Working Group, which focuses on the coverage of young children and improving data on this population. In addition, the Census Bureau formed a separate working group in 2023 focused on researching ways to improve the coverage of other Historically Undercounted Populations (HUPs). The Census Bureau is actively conducting outreach to stakeholders, partners and community organizations to expand and strengthen a trusted messenger ecosystem across the nation.

Topic 10. Persistent Undercounts in 2020 Census, Misallocation of Federal Funding, and Improving the Census Base

Several of the comments were related to the issue of correcting undercounts that persisted in the 2020 Census, emphasizing that undercounts misdirect Federal and State funding. Although the April 1, 2020 population estimates base has been identified as a possible mechanism for mitigating undercounts, many commenters acknowledged that the expectation for the estimates to compensate for coverage errors in a multi-billion-dollar census to achieve a fairer distribution of funds might be unrealistic.

Various commenters suggested that the Census Bureau should research the best ways to make coverage adjustments, determine the feasibility of incorporating administrative data sources while maintaining quality standards, and build in an opportunity for feedback before final decisions around the base population are made. Furthermore, numerous commenters

expressed support for a continuation of the Census Bureau's efforts to research population base enhancements, but recommended the research examine possible adjustments at a more local level (*e.g.,* adjusting age distributions in the estimates base by county, rather than applying the same distribution adjustment equally to every county across the country). Additionally, a few commenters advised the BERT research to make use of existing administrative records files and the Census Bureau's Frames Program to improve the accuracy of baseline data. Most commenters strongly supported the Census Bureau's creation of BERT and expressed ongoing support of their work.

Other commenters noted that the 2020 Post-Enumeration Survey (PES), one of the Census Bureau's official coverage measures, is not sufficiently robust for adjusting undercounts at the local level. They recommended improving the estimates base by adjusting State-level counts using PES State-level results and then incorporating administrative data from programs such as Medicaid; the Supplemental Nutrition Assistance Program (SNAP); the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); etc. to distribute the increased or decreased population to the counties within each State.

A collection of commenters also suggested that the total population in the April 1, 2020 estimates base no longer be restricted by the total population from the 2020 Census counts, due to the risk of underestimating children in some locations and inflating estimates of children in other locations, potentially at the expense of other age cohorts.

Response 10.

The Census Bureau appreciates the expression of support for BERT and the team's efforts to build the most accurate estimates base possible. BERT has specifically been formed to research the feasibility of taking coverage measures such as the PES, Demographic Analysis (DA) and other administrative records into account in the development of the estimates base. Moving forward, BERT's research findings will inform decisions about what 2020 Census data or administrative sources are used in the development of the estimates base, and whether there are adjustments that can be made to the Census data used in the base which could be applied in equitable, methodologically sound, and demographically plausible ways. As such, this research entails a careful evaluation of all data sources which would potentially be used to enhance or adjust the estimates base so that data (including the coverage measures from PES and DA) are not used in ways that extend beyond their design capacity. The research also includes assessing the impact of the blended estimates base on specific populations, such as the population of children, to ensure that the way the sources are combined in the estimates base produces the likeliest distribution by demographic characteristics.

Moreover, the BERT research includes collaboration with other administrative records-based projects underway at the Census Bureau, such as the demographic frame developed by the Frames Program. These joint efforts will lend insight into the suitability of administrative data sources for researching coverage issues. This includes the potential to target specific populations or geographies, including the possibility of developing differential adjustments at subnational geographic levels.

The BERT research is a prime example of how we are striving to mitigate coverage issues, and the work being undertaken by this team is a major priority for the Census Bureau.

Theme: Other Comments

Topic 11. Availability of BERT's Research Plans and Results

Commenters recommended that the Census Bureau make publicly available:

a. A detailed research schedule for each BERT subject matter component.

b. A detailed representation of BERT's short-, medium- and long-term goals and key decision points.

c. Its evaluations of how specific decisions on population and housing base adjustments impact final statistics for States and sub-State areas.

d. Methodological reviews solicited by the Bureau from external researchers on BERT, PEP, and any potential application of privacy protection impacting PEP.

Response 11.

The Census Bureau acknowledges the importance of transparency regarding the work of BERT to the extent possible given the nature of the research. We will be seizing upon promising findings as our research progresses, and this will vary from one specific approach to the next. As such, it is neither advisable nor prudent to adhere to a strict, detailed research schedule by subject matter component. The research process will evolve as findings and insights emerge. With this in mind, BERT has distinct plans to promote transparency and disseminate information. These include regular public briefings as well as a dedicated email address, *pop.bert@census.gov,* which provides stakeholders with a mechanism for sharing ideas relating to data sources or methodology, or to request information.

Changes From Proposed Rule

The following are changes to the Challenge Program procedures resulting from the public comments received:

(1) One commenter requested that the Census Bureau provide for some flexibility in the rule to allow submission of a physical copy of challenge materials through the U.S. postal service or some similar delivery option, rather than exclusively accepting digital submissions. The Census Bureau acknowledged the issue and agreed to implement appropriate language in § 90.7 to address the request, and specify in the ''Population Estimates Challenge Review Guide'' a physical address where local governments could submit challenge materials to the Census Bureau for review and evaluation.

(2) Many commenters advised to allow the FSCPE members to serve as conduits with local governments in the review of pre-release estimates. The Census Bureau encourages the designated FSCPE agency in each State to serve in that role to the extent possible given data confidentiality requirements for pre-release data and has added specific language to § 90.9 to reflect the Census Bureau's intent.

(3) The Census Bureau amended § 90.9 to address local governments' demand for increased communications about the challenge process to be more inclusive of all governmental units (especially small towns and cities).

Summary of Provisions Implemented by This Final Rule

In November of 2022, The Census Bureau resumed the Population Estimates Challenge Program to provide governmental units the opportunity to challenge population estimates for 2021 and subsequent years in forthcoming estimates series, beginning with the Vintage 2022 series that is scheduled to be published in 2023. The Census Bureau now amends its regulations to: (1) ensure that the regulatory text more accurately describes how the Population Estimates Challenge Program has always functioned and is expected to function in the future; (2) update the regulation's references pertaining to the input data which are used to produce the official population estimates; and (3) allow the designated FSCPE agencies in each State to serve as conduits with local governments in the review of pre-release estimates, to the extent possible given

data confidentiality requirements for pre-release data. These changes are captured in the proposed updates to §§ 90.2, 90.7, 90.8, and 90.9. At this time, the Census Bureau is making no technical changes to its regulations except in the sections noted below:

Sections 90.2 and 90.7—to ensure that the regulatory text more accurately describes how the Population Estimates Challenge Program has always functioned and is expected to function in the future. This proposed clarification does not reflect any operational changes.

Section 90.8—to update the challengeable components of change.

Section 90.9—to allow the designated FSCPE agencies in each State to serve as conduits with local governments in the review of pre-release estimates, to the extent possible given data confidentiality requirements for pre-release data.

The Census Bureau in Section § 90.2 revises its policy which is to provide the most accurate population estimates possible given the constraints of resources and available statistical techniques. It is also the policy of the Census Bureau, to the extent feasible, to provide governmental units the opportunity to seek a review of and provide additional data for these estimates and to present evidence relating to the accuracy of the estimates.

The Census Bureau in § 90.7 updates information about where to file a challenge for the governmental units that would like to initiate a challenge process after the population estimates are posted on the Census Bureau's website (*www.census.gov*). A request for a population estimates challenge must be prepared in writing by the governmental unit and filed with the Chief, Population Division, Census Bureau by sending the request via email to *POP.challenge@census.gov* or to a physical address that the Census Bureau will specify in the updated version of the ''Population Estimates Challenge Program Review Guide'' to be posted in the *census.gov* website. The governmental unit must designate a contact person who can be reached by telephone or email during normal business hours should questions arise regarding the submitted materials. In the event that a county-level governmental unit or statistical equivalent is not an active general-purpose government, the FSCPE member agency may serve as sponsor of the challenge and the governor will serve as the highest elected official.

The Census Bureau also amends § 90.8 by revising paragraphs (a), (c), and (d) that specify the evidence required for the challenge process. The types of data that are submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate. The Census Bureau will provide additional Web-based information describing the data that are required and how the governmental unit may contact the Census Bureau.

The Census Bureau in § 90.9 adds language to allow the designated FSCPE agencies in each State to serve as conduits with local governments in the review of pre-release estimates, to the extent possible given data confidentiality requirements for pre-release data.

The sections that feature changes to the regulations are noted as ''Revised'' in parentheses, for the public's convenience:

The following are the current sections of part 90 procedure for challenging population estimates.

Former	Effective April 24, 2023
PART 90 PROCEDURE FOR CHALLENGING POPULATION ESTIMATES.	PART 90 PROCEDURE FOR CHALLENGING POPULATION ESTIMATES
90.1 Scope and applicability	90.1 Scope and applicability.
90.2 Policy of the Census Bureau	(Revised) 90.2 Policy of the Census Bureau.
90.3 Definitions	90.3 Definitions.
90.4 General	90.4 General.
90.5 Who may file a challenge	90.5 Who may file a challenge.
90.6 When a challenge may be filed	90.6 When a challenge may be filed.
90.7 Where to file a challenge	(Revised) 90.7 Where to file a challenge.
90.8 Evidence required	(Revised) 90.8 Evidence required.
90.9 Review of challenge	(Revised) 90.9 Review of challenge.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this final rule will not have a significant impact on a substantial number of small entities.

Number of Small Entities

This final rule would impact only governmental units, some of which may be considered a small entity under the RFA. The RFA defines ''small entity'' as a small business, small organization, or small governmental jurisdiction. Specifically, the RFA defines ''small governmental jurisdiction'' as the government of a city, county, town, school district, or special district with a population of less than 50,000. Using this criterion, the Census Bureau estimates that around 37,000 small governmental jurisdictions would be impacted by this rulemaking.

Economic Impact

The Census Bureau does not anticipate any economic impact as a result of this final rule. This rulemaking intends to resume the implementation of the Population Estimates Challenge Program in 2023 to provide eligible entities the opportunity to file a challenge to population estimates for 2021 and subsequent years in forthcoming estimates series, beginning with the Vintage 2022 series that is scheduled to be published in 2023. There are no direct costs imposed on governmental entities (units) that wish to initiate a challenge under the Population Estimates Challenge Program.

Executive Orders

This rulemaking has been determined to be not significant for purposes of Executive Order 12866. This final rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

This final rulemaking does not contain a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C., Chapter 35.

Robert L. Santos, Director, Census Bureau, approved the publication of this notification in the **Federal Register**.

List of Subjects in 15 CFR Part 90

Administrative practice and procedure, Census data, Population census, Statistics.

■ For the reasons set forth in the preamble, Census Bureau revises 15 CFR part 90 to read as follows:

PART 90—PROCEDURE FOR CHALLENGING POPULATION ESTIMATES

Sec.

90.1 Scope and applicability.
90.2 Policy of the Census Bureau.
90.3 Definitions.
90.4 General.
90.5 Who may file a challenge.
90.6 When a challenge may be filed.
90.7 Where to file a challenge.
90.8 Evidence required.
90.9 Review of challenge.

Authority: 13 U.S.C. 4 and 181.

§ 90.1 Scope and applicability.

Between decennial censuses, the Census Bureau annually prepares statistical estimates of the number of people residing in States and their governmental units. In general, these estimates are developed by updating the population counts produced in the most recent decennial census with demographic components of change data and/or other indicators of population change. These rules prescribe the administrative procedure available to governmental units to request a challenge to the most current of these estimates.

§ 90.2 Policy of the Census Bureau.

It is the policy of the Census Bureau to provide the most accurate population estimates possible given the constraints of resources and available statistical techniques. It is also the policy of the Census Bureau, to the extent feasible, to provide governmental units the opportunity to seek a review of and provide additional data for these estimates and to present evidence relating to the accuracy of the estimates.

§ 90.3 Definitions.

As used in this part (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) *Census Bureau* means the U.S. Census Bureau, Department of Commerce.

(b) *Population Estimates Challenge* means, in accordance with this part, the process a governmental unit may use to provide additional input data for the Census Bureau's population estimate and the submission of substantive documentation in support thereof.

(c) *Director* means Director of the Census Bureau, or an individual designated by the Director to perform under this part.

(d) *Population estimate* means a statistically developed calculation of the number of people living in a governmental unit to update the preceding census or earlier estimate.

(e) A *governmental unit* means the government of a county, municipality, township, incorporated place, or other minor civil division, which is a unit of general-purpose government below the State.

(f) A *non-functioning county or statistical equivalent* means a sub-State entity that does not function as an active general-purpose governmental unit. This situation exists in Connecticut, Rhode Island, for selected counties in Massachusetts, and for the Census Areas in Alaska.

(g) For the purposes of this program, an *eligible governmental unit* also includes the District of Columbia and non-functioning counties or statistical equivalents represented by a FSCPE member agency.

§ 90.4 General.

This part provides a procedure for a governmental unit to request a challenge of a population estimate of the Census Bureau. The Census Bureau, upon receipt of the appropriate documentation, will attempt to resolve the estimate with the governmental unit.

§ 90.5 Who may file a challenge.

A request for a challenge of a population estimate generated by the Census Bureau may be filed only by the chief executive officer or highest elected official of a governmental unit. In those instances where the FSCPE member agency represents a non-functioning county or statistical equivalent, the governor will serve as the chief executive officer or highest elected official.

§ 90.6 When a challenge may be filed.

(a) A request for a challenge to a population estimate may be filed any time up to 90 days after the release of the estimate by the Census Bureau. Publication by the Census Bureau on its website (*www.census.gov*) shall constitute release. Documentation requesting a challenge of any estimate may also be filed any time up to 90 days after the date the Census Bureau, on its own initiative, revises that estimate.

(b) If, however, a governmental unit has a sufficiently meritorious reason for not filing in a timely manner, the Census Bureau has the discretion to accept the late request.

§ 90.7 Where to file a challenge.

A request for a population estimate challenge must be prepared in writing by the governmental unit and filed with the Chief, Population Division, Census Bureau by sending the request via email to *POP.challenge@census.gov* or to a physical address that the Census Bureau will specify in the updated ''Population Estimates Challenge Program Review Guide'' to be posted in the *census.gov* website. The governmental unit must designate a contact person who can be reached by telephone or email during normal business hours should questions arise with regard to the submitted materials.

§ 90.8 Evidence required.

(a) The governmental unit shall provide whatever evidence it has relevant to the request at the time of filing. The Census Bureau may request further evidence when necessary. The evidence submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate. Currently, the Census Bureau challenge process cannot accept estimates developed from methods different from those used by the Census Bureau. The Census Bureau will only accept a challenge when the evidence provided indicates the use of incorrect data, processes, or calculations in the estimates.

(b) For counties and statistical equivalents, the Census Bureau uses a cohort-component of change method to produce population estimates. Each year, the components of change are updated. These components include births, deaths, migration, and change in the group quarters population. The Census Bureau will consider a challenge based on additional information on one or more of the components of change or about the group quarters population in a locality.

(c) For minor civil divisions and incorporated places, the Census Bureau uses a housing unit method to distribute a county population to places within its legal boundaries. The components in this method include housing units estimates, average household population per housing unit, and an estimate of the population in group quarters. The estimation formula was simplified to increase the accuracy of the estimates following the application of differential privacy as per the Census Bureau's new disclosure avoidance framework. As a result, the persons per household (PPH) and occupancy rate components were replaced with the average household population per housing unit. Additionally, the Census Bureau will consider a challenge based on data related to changes in an area's housing stock, such as data on demolitions, condemned units, uninhabitable units, building permits, or mobile home placements or other housing inventory-based data deemed comparable by the Census Bureau. The Census Bureau will also consider a challenge based on additional information about the group quarters population in a locality.

(d) The Census Bureau will also provide a guide on its website as a reference for governmental units to use in developing their data as evidence to support a challenge to the population estimate. In addition, a governmental unit may address any additional questions by contacting the Census Bureau at 301–763–2461 or by sending emails to *POP.challenge@census.gov* or by delivering mail to a physical address that the Census Bureau will specify in the updated version of the ''Population Estimates Challenge Program Review Guide'' to be posted in the *census.gov* website.

§ 90.9 Review of challenge.

The Chief, Population Division, Census Bureau, or the Chief's designee shall review the evidence provided with the request for the population estimate challenge, shall work with the governmental unit to verify the data provided by the governmental unit, and evaluate the data to resolve the issues raised by the governmental unit. Furthermore, the designated FSCPE agencies are encouraged to serve as conduits with local governments in the review of pre-release estimates, to the extent that this is possible given data confidentiality requirements for pre-release data. Thereafter, the Census Bureau shall respond in writing with a decision to accept or deny the challenge. In the event that the Census Bureau finds that the population estimate should be updated, it will also post the revised estimate on the Census Bureau's website (*www.census.gov*).

Dated: March 20, 2023.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2023–06064 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 230321–0080]

RIN 0694–AJ07

Revisions to the Unverified List

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

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by adding 32 persons to the Unverified List (UVL). Of the 32 persons being added, one is under each of the following destinations: Bulgaria, Canada, Indonesia, Israel, Malaysia, Saudi Arabia, and Singapore; 14 are under the destination of China, two are under the destination of Germany, four are under the destination of Turkey, and five under the destination of the United Arab Emirates (UAE).

DATES: This rule is effective: March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Linda Minsker, Director, Office of Enforcement Analysis, Phone: (202) 482–4255, Email: *UVLRequest@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Unverified List

The UVL, found in supplement no. 6 to part 744 of the EAR (15 CFR parts 730–774), contains the names and addresses of foreign persons who are or have been parties to a transaction, as described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR. These foreign persons are added to the UVL because BIS or federal officials acting on BIS's behalf were unable to verify their *bona fides* (*i.e.,* legitimacy and reliability relating to the end use and end user of items subject to the EAR) through the completion of an end-use check. Sometimes these checks, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside the U.S. Government's control.

There are any number of reasons why these checks cannot be completed to the satisfaction of the U.S. Government. The reasons include, but are not limited to: (1) reasons unrelated to the cooperation of the foreign party subject to the end-use check (for example, BIS sometimes initiates end-use checks but is unable to complete them because the foreign party cannot be found at the address indicated on the associated export documents and BIS cannot contact the party by telephone or email); (2) reasons related to a lack of cooperation by a host government that fails to schedule and facilitate the completion of an end-use check; for example, a host government agencies' lack of responses to requests to conduct end-use checks, actions preventing the scheduling of such checks, or refusals to schedule checks in a timely manner; or (3) when, during the end-use check, a recipient of items subject to the EAR is unable to produce the items that are the subject of the end-use check for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of the items.

BIS's inability to confirm the *bona fides* of foreign persons subject to end-use checks raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR; this also indicates a risk that such items may be diverted to prohibited end uses and/or end users. Under such circumstances, there may not be sufficient information to add the foreign person at issue to the Entity List (supplement no. 4 to part 744 of the EAR) under § 744.11 of the EAR. Therefore, BIS may add the foreign person to the UVL.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, re-exporters, and transferors to obtain (and maintain a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement. Finally, pursuant to § 758.1(b)(8), Electronic Export Information (EEI) must be filed in the Automated Export System (AES) for all

exports of tangible items subject to the EAR where parties to the transaction, as described in § 748.5(d) through (f), are listed on the UVL.

Requests for the removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL entry will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of their *bona fides.*

Additions to the UVL

This rule adds 32 persons to the UVL by amending supplement no. 6 to part 744 of the EAR to include their names and addresses. BIS is adding these persons pursuant to § 744.15(c) of the EAR. This final rule implements the decision to add the following 32 persons located in the following destinations to the UVL: Under Bulgaria, Vera Yordanova. Under Canada, Skymount Drones. Under China, Airpart Consolidated Trading; ECOM International (HK) Co., Ltd.; Guangzhou Trusme Electronics Technology Co., Ltd.; HK P&W Industry Co. Ltd. (HKPW); Jet-Prop International Forwarding (HK) Ltd.; Kesina Services; Lightstar Technology Ltd.; Shandong Yuehaitongxin Keji Ltd.; Shengwei Technology Co., Ltd.; Small Leopard Electronics Co., Ltd.; Solar Way (Hong Kong) Ltd.; Sunway Technology Electronics Ltd.; USETA Tech (HK) Ltd.; and Winners Global Trading Co. Under Germany, In Time Forwarding & Courier e.K. and One Light GMBH. Under Indonesia, PT Smart Cakrawala Aviation. Under Israel, CNG Labs. Under Malaysia, Golden Gamp Sdn Bhd. Under Saudi Arabia, Al Gihaz Co., Ltd. for Contracting and Trading. Under Singapore, Smart Cakrawala Aviation. Under Turkey, BLC Havacilik Saglik Medikal Insaat Elektrik Ic ve Dis Ticaret; Odak Kimya; Piro Deniz Motorlari; and Üçüzler Lojistik Gida Tekstil. Under the UAE, Al Kabiru Trading LLC; BNS Hardware; Delma Industrial Supply & Marine Services; Diamond River General Trading; and Masoud Afghan General Trading.

Allied Governments Note

As a reminder, particularly with respect to partner countries, the Unverified List is not intended for use as a sanction against any particular country or government.

Export Control Reform Act of 2018

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

Savings Clause

Shipments (1) that are removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action; (2) that were eligible for export, reexport, or transfer (in-country) without a license before this regulatory action; and (3) that were on dock for loading, on lighter, laden aboard an exporting carrier, or enroute aboard a carrier to a port of export, on March 24, 2023, pursuant to actual orders, may proceed to that UVL listed person under the previous license exception eligibility or without a license and pursuant to the export clearance requirements set forth in Part 758 of the EAR that applied prior to this person being listed on the UVL, so long as the items have been exported from the United States, reexported or transferred (in-country) before April 22, 2023. Any such items not actually exported, reexported or transferred (in-country) before midnight on April 22, 2023, are subject to the requirements in § 744.15 of the EAR in accordance with this rule.

Rulemaking Requirements

Executive Order Requirements

Executive Orders 13563 and 12866 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. This final rule is not a ''significant regulatory action'' under Executive Order 12866.

This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act Requirements

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

The UVL additions contain collections of information approved by OMB under the following control numbers:

- OMB Control Number 0694–0088—Simple Network Application Process and Multipurpose Application Form
- OMB Control Number 0694–0122—Miscellaneous Licensing Responsibilities and Enforcement
- OMB Control Number 0694–0134—Entity List and Unverified List Requests,
- OMB Control Number 0694–0137—License Exemptions and Exclusions.

BIS believes that the overall increases in burdens and costs will be minimal and will fall within the already approved amounts for these existing collections. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

Administrative Procedure Act and Regulatory Flexibility Act Requirements

Pursuant to Section 4821 of ECRA, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking and opportunity for public participation.

Further, no other law requires notice of proposed rulemaking or opportunity for public comment for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744—CONTROL POLICY: END-USER AND END-USE BASED

■ 1. The authority citation for part 744 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O.

12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 19, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 2. Supplement no. 6 to part 744 is amended:

■ a. By creating a country listing for BULGARIA;

■ b. Under BULGARIA by adding an entry, in alphabetical order, for the following entity: ''Vera Yordanova;''

■ c. Under CANADA by adding an entry, in alphabetical order, for the following entity: ''Skymount Drones;''

■ d. Under CHINA, by adding entries, in alphabetical order, for the following entities: ''Airpart Consolidated Trading;'' ''ECOM International (HK) Co., Ltd.;'' ''Guangzhou Trusme Electronics Technology Co., Ltd.;'' ''HK P&W Industry Co. Ltd. (HKPW);'' ''Jet-Prop International Forwarding (HK) Ltd.;'' ''Kesina Services;'' ''Lightstar Technology Ltd.;'' ''Shandong Yuehaitongxin Keji Ltd.;'' ''Shengwei Technology Co., Ltd.;'' ''Small Leopard Electronics Co., Ltd.;'' ''Solar Way (Hong Kong) Ltd.;'' ''Sunway Technology Electronics Ltd.;'' ''USETA Tech (HK) Ltd.;'' and ''Winners Global Trading Co.;''

■ e. Under GERMANY by adding entries, in alphabetical order, for the following entities: ''In Time Forwarding & Courier e.K;'' and ''One Light GMBH;''

■ f. By creating a country listing for INDONESIA;

■ g. Under INDONESIA by adding an entry, in alphabetical order, for the following entity: ''PT Smart Cakrawala Aviation;''

■ h. By creating a country listing for ISRAEL;

■ i. Under ISRAEL by adding an entry, in alphabetical order, for the following entity: ''CNG Labs;''

■ j. Under MALAYSIA by adding an entry, in alphabetical order, for the following entity: ''Golden Gamp Sdn Bhd;''

■ k. By creating a country listing for SAUDI ARABIA;

■ l. Under SAUDI ARABIA by adding an entry, in alphabetical order, for the following entity: ''Al Gihaz Co., Ltd. for Contracting and Trading;''

■ m. Under SINGAPORE by adding an entry, in alphabetical order, for the following entity: ''Smart Cakrawala Aviation;''

■ n. Under TURKEY by adding entries, in alphabetical order, for the following entities: ''BLC Havacilik Saglik Medikal Insaat Elektrik Ic ve Dis Ticaret;'' ''Odak Kimya; Piro Deniz Motorlari;'' and ''Üçüzler Lojistik Gida Tekstil'' and

■ o. Under UNITED ARAB EMIRATES by adding entries, in alphabetical order, for the following entities: ''Al Kabiru Trading LLC;'' ''BNS Hardware;'' ''Delma Industrial Supply & Marine Services;'' ''Diamond River General Trading;'' and ''Masoud Afghan General Trading.''

The additions read as follows:

SUPPLEMENT NO. 6 TO PART 744—UNVERIFIED LIST

* * * * *

Country	Listed person and address	**Federal Register** citation
	* * * *	* *
BULGARIA	Vera Yordanova, Zemen Street, No. 2B Floor 2, Apt. 21, Sofia, Bulgaria	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
CANADA	Skymount Drones, 280–8180 11 St. SE, Calgary, AB, T2H 3B5, Canada	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
CHINA, PEOPLE'S REPUBLIC OF.		
	Airpart Consolidated Trading, Flat 01, 25/F, Ka Wing House, Block F, Ka Ting Court Shatin, New Territories, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	ECOM International (HK) Co., Ltd. Flat/Rm 7022 BLK D 7/F Tak Wing Industrial Building 3, Tsun wen Road Tuen Mun, New Territories, Hong Kong; *and* Flat/Rm S, 4/F, Kwun, Tong Industrial Centre Phase 2, 460–470, Kwun Tong Road, Kwun Tong, Kowloon, Hong Kong; *and* No. 12, 19/F, Ho King Commercial Centre, No. 2–16 Fay Yuen Street, Mongkok, Kowloon, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Guangzhou Trusme Electronics Technology Co., Ltd., RM 702, 7/F, Kowloon Building, 555 Nathan Road, Kowloon, Hong Kong; *and* Room 102 Kerry Warehouse, No. 2 San Po St., Sheung Shui, N.T., Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	HK P&W Industry Co. Ltd. (HKPW), Rm. 1902, Easey Commercial Building., 253–261 Hennessey Rd., Wan Chai, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Jet-Prop International Forwarding (HK) Ltd., Rm. 607, 6/F, International Plaza No. 20 Sheung Yuet Road, Kowloon Bay Kowloon, Hong Kong; *and* Room A–B17, 8/Floor, Hong Leong Industrial Complex, 4 Wang Kwong Road, Kowloon, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Kesina Services, No. 24 Jin Lian Road, Louhu District, Shenzhen, China; *and* Room 607, 6/F, International Plaza, No. 20 Sheung Yuet Road, Kowloon Bay, Kowloon, Hong Kong; *and* Room A–B17, 8/Floor, Hong Leong Industrial Complex, 4 Wang Kwong Road, Kowloon, Hong Kong; *and* Block A1, 2 Floor, King Nam Ind., 603–608 Castle Peak Road, Tsuen Wan, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Lightstar Technology Ltd., Rooms 1318–1319, Hollywood Plaza, 610 Nathan Road, Mongkok, Kowloon, Hong Kong; *and* Flat 8, 4/F, Festigood Centre, No. 8 Lok Yip Road, On Lok Tsuen, Fanling, New Territories, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.

Country	Listed person and address	Federal Register citation
	* * * *	* *
	Shandong Yuehaitongxin Keji Ltd., Rooms 1318–1319, Hollywood Plaza, 610 Nathan Road, Mongkok, Kowloon, Hong Kong; *and* Flat 8, 4/F, Festigood Centre, No. 8 Lok Yip Road, On Lok Tsuen, Fanling, New Territories, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Shengwei Technology Co., Ltd., RM 702, 7/F, Kowloon Building, 555 Nathan Road, Kowloon, Hong Kong; *and* Room 102 Kerry Warehouse, No. 2 San Po St., Sheung Shui, N.T., Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Small Leopard Electronics Co., Ltd., Flat/Rm 7022 BLK D 7/F Tak Wing Ind Bldg 3, Tsun wen Road Tuen Mun, New Territories, Hong Kong; *and* Flat/Rm S, 4/F, Kwun, Tong Ind Centre Phase 2, 460–470, Kwun Tong Road, Kwun Tong, Kowloon, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Solar Way (Hong Kong) Ltd., Rooms 1318–1319, Hollywood Plaza, 610 Nathan Road, Mongkok, Kowloon, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Sunway Technology Electronics Ltd., Rm 702, 7/F, Kowloon Building, 555 Nathan Road, Kowloon, Hong Kong; *and* Room 102 Kerry Warehouse, No. 2 San Po St., Sheung Shui, N.T., Hong Kong, China.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	USETA Tech (HK) Ltd., Room B, 6/F, Shing Hing, Commercial Building, 21–27 Wing Kut Street, Central, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Winners Global Trading Co., Room 2, 5/F., Winful Centre, 30 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
GERMANY	In Time Forwarding & Courier e.K., HACC Building 393 A Weg beim Jager, 22335 Hamburg, Germany.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	One Light GMBH, Billstrasse 123, Hamburg, Germany; *and* Billwerder Neuer Deich 72, Hamburg, Germany.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
INDONESIA	PT Smart Cakrawala Aviation, Smartdeal Building 4th Floor, JL Cideng Timur No. 16A, Jakarta Pusat, Indonesia.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
ISRAEL	CNG Labs, a.k.a. CNG Computers, 30 Kikar Zahal, Kiryat Shemona, Israel, 1103303; *and* 104 Tel Hai St., Kiryat Shemona, Israel.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
MALAYSIA	Golden Gamp Sdn Bhd, Ground Floor, No. 122, Jalan Thamby Abdullah, off Jalan Tun Sambanthan, Brickfields, Kuala Lumpur 50470 Malaysia; *and* Unit A1–15–02, Business Suits, Arcoris Mont Kiara, Jalan Kiara, Kuala Lumpur 50480 Malaysia; *and* Unit 1–2 Menara Mudajaya No. 12A, Jalan PJU 7/3 Mutiara Damansara, Petaling Jaya 47810 Malaysia.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
SAUDI ARABIA	Al Gihaz Co., Ltd. for Contracting and Trading, a.k.a. Algihaz Co., P.O. Box 7451, Alworoud Area, Al Orouba Street, Riyadh, Saudi Arabia; *and* Ali Bin Talib Road near Maternity and Child Hospital, Medina, Saudi Arabia.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
SINGAPORE	* * * *	* *
	Smart Cakrawala Aviation, No. 48th, St. Thomas Walk #10–05, Singapore 238126; *and* 7 Airline Cargo Road, #02–22 Cargo Agent Building E, Singapore.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
TURKEY	BLC Havacilik Saglik Medikal Insaat Elektrik Ic ve Dis Ticaret Asemek San.Sit. 1469 Cad. No:18, İvedik—OSB 06378, Ankara, Turkey.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	Odak Kimya, Cevizli Mah. Zuhal Cad. No. 44, Kat: 13, Daire: 131–132, Dumankaya Ritim 60 Parsel Maltepe, Istanbul, Turkey.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Piro Deniz Motorlari, Safak Mh. Akdeniz San. Sit. 50003 Sk., No: 115 Kepez—Antalya, Antalya, Turkey.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Üçüzler Lojistik Gida Tekstil, a.ka. Üçüzler Lojistik Ltd Sti, Yeni Mahalle Hamit Öcal Caddesi, No 35/1, Reyhanli/Hatay, Turkey 31500; *and* Yeni Mahalle Hamit Öcal Caddesi, No 29, Reyhanli/Hatay, Turkey 31500; *and* Yeni *Mahalle* Dr. Nihat Kural Sk., Apt No: 15/11, Reyhanli/Hatay, Turkey 31500.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
UNITED ARAB EMIRATES.	* * * *	* *
	Al Kabiru Trading LLC, Block 10, Suite 112, Office Land Building, Al Karama, Dubai, UAE.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	* * * *	* *
	BNS Hardware, a.k.a. The Fair Price Shop, Warehouse No. 5, Street 21, Sharjah Industrial Area 6, Sharjah City, UAE.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Delma Industrial Supply & Marine Services, P.O. Box 53382, Mina Store Port Zayed Area, Warehouse 45, Abu Dhabi, UAE.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
	Diamond River General Trading, a.k.a. Excells Shipping, a.k.a. Excells General Trading, Office #343, Al Nokhita Building, Al Khaleej Road, Dubai, UAE.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.

Country	Listed person and address	**Federal Register** citation
*	* * *	* *
	Masoud Afghan General Trading, Plot No. S31216 Jebel Ali Free Zone, Dubai, United Arab Emirates.	88 FR [INSERT **FEDERAL REGISTER** PAGE NUMBER] 3/24/2023.
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Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–06171 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

General Rules and Regulations, Securities Act of 1933

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

In Title 17 of the Code of Federal Regulations, Parts 200 to 239, revised as of April 1, 2022, make the following corrections:

§ 230.482 [Corrected]

■ 1. Amend § 230.482 in paragraph (a) by removing the note with the heading ''Note to Paragraph (a)''.

§ 230.498 [Corrected]

■ 2. Amend § 230.498 in paragraph (f)(2) by removing the phrase ''a Notice under § 270.30e–3 of this chapter,'' after ''Summary Prospectus'', and adding ''a Notice under § 270.30e–3 of this chapter,'' after the phrase ''Statutory Prospectuses,''.

[FR Doc. 2023–06287 Filed 3–23–23; 8:45 am]

BILLING CODE 0099–10–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

Regulation S–T—General Rules and Regulations for Electronic Filings

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 17 of the Code of Federal Regulations, Parts 200 to 239, revised as of April 1, 2022, in section 232.11, reinstate the definition of ''Interactive Data Financial Report'' to read as follows:

§ 232.11 Definition of terms used in part 232.

* * * * *

Interactive Data Financial Report. The term *Interactive Data Financial Report* means the machine-readable computer code that presents information in eXtensible Business Reporting Language (XBRL) electronic format pursuant to § 232.407.

* * * * *

[FR Doc. 2023–06293 Filed 3–23–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 106, 170, 172, 173, 184, and 190

[Docket No. FDA–2022–N–2898]

Food Labeling, Infant Formula Requirements, Food Additives and Generally Recognized as Safe Substances, New Dietary Ingredient Notification; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA or we) is amending its regulations that pertain to food labeling, infant formula requirements, food additives, direct food substances affirmed as generally recognized as safe (GRAS), and new dietary ingredient (NDI) notifications. These amendments correct typographical errors, correct errors in sample labels, restore inadvertent omissions, and update office and organization names, addresses, and other references. This action is ministerial or editorial in nature.

DATES: This rule is effective on March 24, 2023.

FOR FURTHER INFORMATION CONTACT:

For further information about food labeling amendments, Mark Kantor, Office of Nutrition and Food Labeling (HFS–830), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450.

For further information about infant formula amendments, Carrie Assar, Office of Nutrition and Food Labeling (HFS–850), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450.

For further information about food additive and GRAS amendments, Annette McCarthy, Office of Food Additive Safety (HFS–205), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200.

For further information about NDI notification amendments, Laura Rich, Office of Dietary Supplement Programs (HFS–810), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–8152.

For further information about the rule, Alexandra Jurewitz, Office of Regulations and Policy (HFS–024), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION:

I. Background

A. Food Labeling (21 CFR Part 101)

In the **Federal Register** of May 27, 2016 (81 FR 33742), we published a final rule entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (the Nutrition Facts Label Final Rule). The Nutrition Facts Label Final Rule amended our labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices.

In the **Federal Register** of December 21, 2018 (83 FR 65493), we issued a technical amendment pertaining to the Nutrition Facts label requirements. The technical amendments corrected errors that were made in sample labels, restored incorrect deletions, corrected the edition of a reference cited in the Nutrition Facts Label Final Rule, and corrected cross-references to other

regulations. However, certain errors remained, and so this rulemaking will provide additional corrections to sample labels and updates to office names.

B. Notification of an Adulterated or Misbranded Infant Formula (§ 106.150 (21 CFR 106.150))

In the **Federal Register** of February 10, 2014 (79 FR 7934), FDA published an interim final rule entitled ''Current Good Manufacturing Practices, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports, for Infant Formula'' (2014 interim final rule). In the **Federal Register** of June 10, 2014 (79 FR 33057), FDA issued a final rule, adopting, with some modifications, the 2014 interim final rule where FDA established notification requirements for adulterated or misbranded infant formula. The 2014 interim final rule included an incorrect statutory citation in this provision, and so this rulemaking is intended to correct the citation.

C. Food Additives and GRAS Substances (21 CFR Parts 170, 172, 173, and 184)

Our regulations in parts 170, 172, 173, and 184 (21 CFR parts 170, 172, 173, and 184) discuss the general principles for evaluating food additive safety, the use of food additives, and substances affirmed as GRAS. Our regulations reference office names and addresses that are no longer correct, reference an organization's name that is no longer correct, and include a potentially confusing reference to the Federal Food, Drug, and Cosmetic Act (FD&C Act); consequently, this rulemaking will update names and addresses and clarify a reference to the FD&C Act.

D. Dietary Supplements (21 CFR Part 190)

In the **Federal Register** of September 23, 1997 (62 FR 49886), FDA published a final rule entitled ''Premarket Notification for a New Dietary Ingredient.'' The final rule specifies the information a manufacturer or distributor must include in its premarket NDI notification and establishes the administrative procedures for these notifications. The regulation refers to an FDA office name and address that is no longer correct, and so this rulemaking will update the office name and address.

II. Description of the Technical Amendments

We are making technical amendments to our regulations in parts 101, 106, and 190 (21 CFR parts 101, 106, and 190) and parts 170, 172, 173, and 184. In general, part 101 pertains to food labeling, including the nutrition labeling of food. Part 106 pertains to current good manufacturing practice, quality control procedures, quality factors, records and reports, and notifications regarding infant formula. Part 170 pertains to food additives while part 172 pertains to food additives permitted for direct addition to food for human consumption. Part 173 pertains to secondary food additives permitted in food for human consumption. Part 184 pertains to direct food substances affirmed as generally recognized as safe. Part 190 pertains to dietary supplements.

A. Food Labeling (Part 101)

Since we published the technical amendments to the final rule in the **Federal Register**, we have become aware of additional changes or corrections that are needed to the Nutrition Facts label requirements. These changes or corrections are non-substantive; for example, § 101.9(d)(11) and (j)(5)(ii)(B) (21 CFR 101.9(d)(11) and (j)(5)(ii)(B)) show sample Nutrition Facts labels. In one case, the sample label included an extra word in the phrasing of a nutrient declaration. In the other case, the sample label included a number that did not comply with the rounding requirements for certain nutrients. The technical amendment revises the sample labels. We describe these and other changes to the Food Labeling regulations below.

1. Section 101.4 and Office Name Corrections

Our regulations in 21 CFR 101.4 discuss the designation of food ingredients and state that certain references are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the references are available for examination to be FDA's Dockets Management Staff.

2. Section 101.9(b)(7)(vi) and Addresses for Obtaining Reference Materials

The Nutrition Facts Label Final Rule revised the name of the program office that is responsible for developing regulations and answering questions related to nutrition labeling, as well as for maintaining some references discussed throughout § 101.9. The program office's former name was the Office of Nutritional Products, Labeling and Dietary Supplements, and the Nutrition Facts Label Final Rule changed the program office's name to the Office of Nutrition and Food Labeling. However, our regulations in § 101.9(b)(7)(vi) continued to use the program office's former name. Therefore, this technical amendment revises § 101.9(b)(7)(vi) by replacing ''Office of Nutritional Products, Labeling and Dietary Supplements'' with ''Office of Nutrition and Food Labeling.''

3. Section 101.9(c)(8)(iv) and Units of Measure

Our regulations in § 101.9(c)(8)(iv) provide the Reference Daily Intakes (RDIs), nomenclature, and units of measure for various vitamins and minerals that are essential in human nutrition. The regulation lists the vitamins and minerals in a table, and footnotes to the table provide additional information. Footnote 3 discusses the units of measure that may be used for vitamin A. The footnote says, in part, that the abbreviation ''RAE'' stands for ''Retinol activity equivalents'' and that 1 microgram RAE equals 1 microgram retinol, ''2 microgram supplemental β-carotene'' or ''dietary 24 micrograms dietary β-cryptoxanthin.'' The technical amendment replaces ''2 microgram'' with ''2 micrograms'' and deletes the word ''dietary'' before ''24 micrograms.''

4. Section 101.9(d)(11)(iii) and the Tabular Format Label Illustration

Our regulations in § 101.9(d)(11)(iii) contain a sample Nutrition Facts label in a tabular format. However, the sample label contains the statement ''Includes 1g of Added Sugars.'' Under § 101.9(c)(6)(iii), however, the correct statement is ''Includes 'X' g Added Sugars.'' Therefore, the technical amendment revises the sample label by removing the word ''of'' so that the statement reads ''Includes 1g Added Sugars.''

5. Section 101.9(j)(5)(ii)(B) and ''Infants Through 12 Months of Age'' Label Illustration

Our regulations in § 101.9(j)(5)(ii)(B) contain a sample Nutrition Facts label for a food intended for infants through 12 months of age. The sample label declares the amount of sodium to be 74 mg. Under § 101.9(c)(4), however, the amount of sodium declared on a Nutrition Facts label must be expressed to the nearest 5-milligram increment when the serving contains 5 to 140 milligrams of sodium. Therefore, the technical amendment provides a revised sample label correcting the amount of sodium from ''74mg'' to ''75mg.''

6. Section 101.9(j)(13)(i)(B), Footnote Requirements for Foods in Small Packages, and Minimum Type Size

Our regulations in § 101.9(j)(13)(i)(B) discuss requirements for foods in small

packages. The Nutrition Facts Label Final Rule revised § 101.9(j)(13)(i)(B) so that the Nutrition Facts label on small packages would not be required to bear a footnote explaining what the ''% Daily Value'' means and manufacturers could voluntarily include an abbreviated footnote of ''% DV = % Daily Value'' in a type size no smaller than 6 point. Additionally, these requirements include, among other things, the minimum type size for required information. The minimum type size is specified as ''no smaller than 6 point or all upper-case type of 1–16 inches.''

The inclusion of the alternate footnote option was inadvertently omitted when changes to the same paragraph, as described in the **Federal Register** of December 1, 2014 (79 FR 71259), became effective on December 1, 2016. Consequently, we are restoring the alternate footnote option. The technical amendment also corrects the minimum type size, in inches, to ''1/16 inches'' rather than ''1–16 inches.''

7. Section 101.9(j)(13)(ii)(A)(*1*) and Tabular Display for Small Packages Label Illustration

Our regulations in § 101.9(j)(13)(ii)(A)(*1*) provide a sample label for the tabular display for small packages. The sample label included an asterisk (*) after the ''% DV'' heading but omitted any footnote or other explanation as to what the asterisk was referring. The sample label also included ''servings per container'' and ''serving size'' declarations that are not consistent with our rounding regulations in § 101.9(b)(5)(i), which state that ''Cups shall be expressed in 1/4- or 1/3-cup increments.''

Manufacturers may voluntarily include an abbreviated footnote ''% DV = % Daily Value'' for products in small packages, but because the sample label did not include the abbreviated footnote, the technical amendment removes the asterisk after the ''% DV'' heading in the sample label. The technical amendment also revises the serving size from ''1/6 cup'' to ''1/3 cup'' and the servings per container from ''5 servings per container'' to ''about 3 servings per container'' in the sample label.

8. Section 101.9(j)(13)(ii)(A)(*2*) and Linear Display for Small Packages Label Illustration

Our regulations in § 101.9(j)(13)(ii)(A)(*2*) provide a sample label for the linear display for small packages. The sample label included a ''% DV'' declaration of ''Potas. (5% DV).'' Under § 101.9(c)(8)(iii), however, the ''% DV'' for vitamins and minerals must be expressed to the nearest 2-percent increment up to and including the 10-percent level. Therefore, the technical amendment changes ''Potas. (5% DV)'' to ''Potas. (6% DV)'' in the sample label.

9. Section 101.9(j)(13)(ii)(B) and Corrections to Abbreviation Instructions

Our regulations in § 101.9(j)(13)(ii)(B) allow for the use of ''Vit.'' and ''Potas.'' as abbreviations for ''Vitamin'' and ''Potassium,'' respectively, on the labels of small and intermediate-sized packages. While our regulations in § 101.9(d)(12) also show the use of these abbreviations on the standard vertical side-by-side label illustration, indicating that we intended to permit this use, we failed to state explicitly that these abbreviations are permitted on labels other than the labels of small and intermediate-sized packages. In addition, the regulations allow for the use of ''Total carb.'' as an abbreviation for ''Total carbohydrate'' on dual-column displays and refers to other requirements in § 101.9 by their paragraph designations.

The technical amendment revises § 101.9(j)(13)(ii)(B) to clearly state that the use of ''Vit.'' and ''Potas.'' as abbreviations for ''Vitamin'' and ''Potassium,'' respectively, on the standard vertical side-by-side label display as shown in § 101.9(d)(12), is permitted in addition to their use on the labels of small and intermediate-sized packages. The technical amendment also revises § 101.9(j)(13)(ii)(B) to include ''of this section'' at the end of the sentence pertaining to ''Total carbohydrate'' so that it refers to ''paragraphs (e)(5), (e)(6)(i), and (e)(6)(ii) of this section.''

10. Section 101.45 and Office Name Correction

Our regulations in 21 CFR 101.45 discuss the guidelines for voluntary nutrition labeling of raw fruits, vegetables, and fish and encourages submission of nutrient databases to the ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–800).'' The regulations also state that guidance is available from the ''FDA Office of Food Labeling.'' The technical amendment revises the office name to be ''Office of Nutrition and Food Labeling (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.''

11. Section 101.80 and Office Name Correction

Our regulations in 21 CFR 101.80 discuss dietary noncariogenic carbohydrate sweeteners and dental caries health claims. The regulations state that a reference is available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the reference is available for examination to be FDA's Dockets Management Staff.

12. Section 101.81 and Office Name Correction

Our regulations in 21 CFR 101.81 discuss soluble fiber from certain foods and risk of coronary heart disease health claims. The regulations state that certain references are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the references are available for examination to be FDA's Dockets Management Staff.

13. Section 101.83 and Office Name Correction

Our regulations in 21 CFR 101.83 discuss plant sterol/stanol esters and risk of coronary heart disease health claims. The regulations state that certain references are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the references are available for examination to be FDA's Dockets Management Staff.

14. Section 101.93 and Office Name Correction

Our regulations in part 101, subpart F, discuss specific requirements for descriptive claims that are neither nutrient content claims nor health claims. In 21 CFR 101.93 the requirements for notifications for certain types of statements for dietary supplements are discussed and submissions are directed to the ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–810), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The technical amendment revises the office name to be ''Office of Dietary Supplement Programs (HFS–810),'' which reflects the office's current name.

15. Section 101.108 and Office Name Correction

Our regulations in 21 CFR 101.108 discuss temporary exemptions for purposes of conducting authorized food labeling experiments. The regulation states that written proposals should be sent to the ''Division of Dockets Management (HFA–305).'' The technical amendment revises the office name to be ''Dockets Management Staff (HFA–305).''

B. Notification of an Adulterated or Misbranded Infant Formula (§ 106.150)

Our regulations in § 106.150(a)(1) state that a manufacturer must promptly notify us when the manufacturer has knowledge that reasonably supports the conclusion that an infant formula processed by that manufacturer and that has left an establishment controlled by the manufacturer may not provide the nutrients required by section 412(i) of the FD&C Act. The regulation was intended to provide a corresponding U.S. Code cite for section 412(i) of the FD&C Act and identifies the U.S. Code cite as 21 U.S.C. 350d(i). The U.S. Code citation should have been 21 U.S.C. 350a(i). Therefore, the technical amendment replaces ''21 U.S.C. 350d(i)'' with ''21 U.S.C. 350a(i).''

C. Food Additives (Parts 170, 172, 173, and 184)

1. Sections 170.35, 170.38, and 170.39—Office Name Correction and Correction Regarding Dockets Management

The regulations in §§ 170.35(b)(1) and (b)(2), 170.38(b)(1) and (b)(2), and 170.39(e) and (g) (21 CFR 170.35(b)(1) and (b)(2), 170.38(b)(1) and (b)(2), and 170.39(e) and (g)) state that data, information, comments, or other documents are on display or available at the ''Division of Dockets Management.'' The technical amendment revises these regulations to replace ''Division of Dockets Management'' with ''Dockets Management Staff'' to reflect the office's current name.

Similarly, our regulations in § 170.39(d), (e), and (h) refer to the ''Office of Premarket Approval.'' The technical amendment replaces ''Office of Premarket Approval'' with ''Office of Food Additive Safety'' to reflect the office's current name.

2. Sections 172.105, 172.133, 172.250, 172.859, 172.878, and 172.882—Office Name and Contact Information Correction

Our regulations in 21 CFR 172.105, 172.133, 172.250, 172.859, 172.878, and 172.882 discuss the use of anoxomer, dimethyl carbonate, petroleum naphtha, sucrose fatty acid esters, white mineral oil, and synthetic isoparaffinic petroleum hydrocarbons as food additives, respectively, and state that certain references are available from the ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The technical amendment replaces all instances of ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' with ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200.'' We are making this change to include the name and contact information of the office where the references are available.

3. Section 172.155—Office Name, Contact Information, and Other Minor Corrections

Our regulations in 21 CFR 172.155 discuss the use of natamycin (also known as pimaricin) as a food additive. Section 172.155(c) states that a reference is available from the ''Division of Product Policy (HFS–206)'' and provides the office's address. The regulation also states that this reference is available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the reference is available to be ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the reference is available for examination to be FDA's Dockets Management Staff.

4. Sections 172.167, 172.185, 172.320, 172.345, 172.379, 172.380, 172.665, 172.712, 172.780, 172.810, 172.812, 172.831, 172.841, 172.862, and 172.867—Office Name and Contact Information Corrections

Our regulations in 21 CFR 172.167, 172.185, 172.320, 172.345, 172.379, 172.380, 172.665, 172.712, 172.780, 172.810, 172.812, 172.831, 172.841, 172.862, and 172.867 discuss the use of silver nitrate and hydrogen peroxide solution, TBHQ, amino acids, folic acid (folacin), vitamin D_2, vitamin D_3, gellan gum, 1,3-butylene glycol, acacia (gum arabic), dioctyl sodium sulfosuccinate, glycine, sucralose, polydextrose, oleic acid derived from tall oil fatty acids, and olestra as food additives, respectively. The regulations state that certain references are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the references are available for examination to be FDA's Dockets Management Staff.

5. Sections 172.723—Office Contact Information and Other Minor Corrections

Our regulations in 21 CFR 172.723 discuss the use of epoxidized soybean oil as a food additive. The regulations state that certain references may be examined at either the ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' or the ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039.'' The technical amendment revises where the references are available for examination to be FDA's Docket Management Staff.

6. Sections 172.736, 172.803, and 172.869—Office Contact Information and Other Minor Corrections

Our regulations in 21 CFR 172.736, 172.803, and 172.869 discuss the use of glycerides and polyglycides of hydrogenated vegetable oils, advantame, and sucrose oligoesters as food additives, respectively. The regulations state that certain references are available from either the ''Office of Food Additive Safety, 5001 Campus Dr., College Park, MD 20740,'' the ''Office of Food Additive Safety, Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740,'' or the ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740'' and are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the references are available to be the ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the references are available for examination to be FDA's Dockets Management Staff.

7. Sections 172.785, 172.809, 172.829, and 172.833—Office Contact Information and Other Minor Corrections

Our regulations in 21 CFR 172.785, 172.809, 172.829, and 172.833 discuss the use of *Listeria*-specific bacteriophage preparation, curdlan, neotame, and sucrose acetate isobutyrate as food additives, respectively. The regulations state that specific references are available from either the ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039,'' the ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library,

10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993,'' or the ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039, 240–402–1200'' and are available for examination at the ''Center for Food Safety and Applied Nutrition's Library'' or the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the references are available to be ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the references are available for examination to be FDA's Dockets Management Staff.

8. Sections 172.800 and 172.886—Office Name, Contact Information, and Other Minor Corrections

Our regulations in 21 CFR 172.800 and 172.886 discuss the use of acesulfame potassium and petroleum wax as food additives, respectively. The regulations state that certain references are available from the ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the references are available to be ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the references are available for examination to be FDA's Dockets Management Staff.

9. Section 172.804—Office Name and Other Minor Corrections

Our regulations in 21 CFR 172.804 discuss the use of aspartame as a food additive. The regulations discuss standards of identity established under ''section 401 of the act'' and, at paragraph (c)(2), states that a specific analytical method is available from the ''Office of Premarket Approval (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993'' and are available for inspection at either the ''Center for Food Safety and Applied Nutrition's Library'' or the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) revises ''section 401 of the act'' to read as ''section 401 of the Federal Food, Drug, and Cosmetic Act'' to clarify which statute is being referenced; (2) replaces ''Office of Premarket Approval'' with ''Office of Food Additive Safety'' to reflect the office's current name; (3) updates the associated address for the Office of Food Additive Safety; and (4) revises where the reference is available for examination to be FDA's Dockets Management Staff.

10. Section 172.864—Office Name and Contact Information Corrections

Our regulations in 21 CFR 172.864 discuss the use of synthetic fatty alcohols as a food additive. The regulation states that various analytical methods are either available from the ''Office of Food Additive Safety, 5001 Campus Dr., College Park, MD 20740'' or the ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The regulation also states that these references are available for examination at the ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039.''The technical amendment: (1) replaces ''Office of Food Additive Safety, 5001 Campus Dr., College Park, MD 20740'' with ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' (2) replaces ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' with ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday;'' and (3) replaces ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' with ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200.'' We are making this change to update the office address and contact information of the office where the references are available.

11. Sections 173.25, 173.45, 173.228, 173.280, 173.310, 173.325, 173.356, 173.368, and 173.375—Office Name and Contact Information Corrections

Our regulations in 21 CFR 173.25, 173.45, 173.228, 173.280, 173.310, 173.325, 173.356, 173.368, and 173.375 discuss the use of ion-exchange resins, polymaleic acid and its sodium salt, ethyl acetate, solvent extraction process for citric acid, boiler water additives, acidified sodium chlorite solutions, hydrogen peroxide, ozone, and cetylpyridinium chloride as secondary direct food additives, respectively, and state that certain references are available for examination from the ''Food and Drug Administration's Main Library.'' The technical amendment revises where the references are available for examination to be FDA's Dockets Management Staff.

12. Sections 173.60, 173.65, 173.73, and 173.400—Office Name and Contact Information Correction

Our regulations in 21 CFR 173.60, 173.65, 173.73, and 173.400 discuss the use of dimethylamine-epichlorohydrin copolymer, divinylbenzene copolymer, sodium polyacrylate, and dimethyldialkylammonium chloride as secondary direct food additives, respectively, and state that certain references are available from either the ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' or the ''Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The technical amendment replaces all instances of ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' or ''Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' with ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200.'' We are making this change to update the name and contact information of the office where the references are available.

13. Section 173.115—Office Contact Information Correction

Our regulations in 21 CFR 173.115 discuss the use of alpha-acetolactate decarboxylase (α-ALDC) enzyme preparation derived from a recombinant *Bacillus subtilis* as a secondary direct food additive. The regulations state that

certain references may be examined at the ''Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740.'' The technical amendment revises where the references are available for examination to be FDA's Docket Management Staff.

14. Sections 173.160 and 173.165—Office Name, Contact Information, and Other Minor Corrections

Our regulations in 21 CFR 173.160 and 173.165 discuss the use of *Candida guilliermondii* and *Candida lipolytica* as secondary direct food additives, respectively, and state that certain references are available from the ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the references are available to be ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the references are available for examination to be FDA's Dockets Management Staff.

15. Sections 173.300, 173.340, and 173.357—Office Contact Information and Other Minor Corrections

Our regulations in 21 CFR 173.300, 173.340, and 173.357 discuss the use of chlorine dioxide, defoaming agents, and materials used as fixing agents in the immobilization of enzyme preparations as secondary direct food additives, respectively, and state that certain references are available from the ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The regulations also state that the references are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) revises the office contact information to add the office's telephone number, ''240–402–1200,'' to the end; and (2) revises where the references are available for examination to be FDA's Dockets Management Staff.

16. Section 173.370—Office Name, Contact Information, and Other Minor Corrections

Our regulations in 21 CFR 173,370 discuss the use of peroxyacids as secondary direct food additives. The regulation in § 173.370(c) states that specific analytical methods can be obtained from the ''Division of Petition Review'' or are available for examination at the ''Food and Drug Administration's Main Library.'' The technical amendment: (1) updates the associated address of where the analytical methods can be obtained to be the ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200;'' and (2) revises where the analytical methods are available for examination to be FDA's Dockets Management Staff.

17. Part 184—Office Name and Contact Information Corrections

Our regulations in part 184 discuss direct food substances affirmed as generally recognized as safe. Throughout part 184, the regulations state that certain references are available for examination at the ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039.'' The technical amendment revises where the references are available for examination to be ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday.''

18. Section 184.1538—Office Name Correction

Our regulations in § 184.1538 (21 CFR 184.1538) discuss nisin preparation as a specific substance affirmed as GRAS. The regulation in § 184.1538(b) and (d) states that copies of a specific reference are available from the ''Division of Dockets Management.'' The technical amendment replaces ''Division of Dockets Management'' with ''Dockets Management Staff'' to reflect the current name and contact information of the office from which the reference is available.

D. Dietary Supplements (Part 190)

Our regulations in part 190, subpart B, discuss NDI notifications. The regulation in 21 CFR 190.6(a) discusses the requirement for premarket notification and directs submissions to the ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–820), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' The technical amendment updates the address to ''Office of Dietary Supplement Programs (HFS–810), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.'' This technical amendment reflects our current organizational structure with regard to dietary supplements.

III. The Administrative Procedure Act

Publication of this document constitutes final action of these changes under the Administrative Procedure Act (APA) (5 U.S.C. 553). Under 5 U.S.C. 553(b)(3)(B) of the APA, an Agency may, for good cause, find (and incorporate the finding and a brief statement of reasons in the rules issued) that notice and public comment procedure on a rule is impracticable, unnecessary, or contrary to the public interest. We have determined that notice and public comment are unnecessary because these amendments only make technical or non-substantive changes, such as correcting sample labels, updating office or organization names, and updating addresses. For these reasons, we have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment is unnecessary.

In addition, FDA finds good cause for these amendments to become effective on the date of publication of this action. The APA allows an effective date less than 30 days after publication as provided by an Agency for good cause found and published with the rule (5 U.S.C. 553(d)(3)). A delayed effective date is unnecessary in this case because the amendments do not impose any new regulatory requirements on affected parties. As a result, affected parties do not need time to prepare before the rule takes effect. Therefore, we find good cause for this correction to become effective on the date of publication of this action.

IV. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has

determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that have substantial direct effects 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. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

List of Subjects

21 CFR Part 101

Food Labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 106

Food grades and standards, Infants and children, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 170

Administrative practice and procedure, Food additives, Reporting and recordkeeping requirements.

21 CFR Parts 172 and 190

Food additives, Reporting and recordkeeping requirements.

21 CFR Parts 173 and 184

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 101, 106, 170, 172, 173, 184, and 190 are amended as follows:

PART 101—FOOD LABELING

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

§ 101.4 [Amended]

■ 2. In § 101.4(h) introductory text and (h)(2), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 101.9 [Amended]

■ 3. Amend § 101.9 by:

■ a. In paragraph (b)(7)(vi), removing ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–800)'' and, in its place, adding ''Office of Nutrition and Food Labeling (HFS–800)'';

■ b. In paragraph (c)(8)(iv), removing ''2 microgram'' and ''dietary 24 micrograms dietary β-cryptoxanthin'' in footnote 3 to the table and adding ''2 micrograms'' and ''24 micrograms dietary β-cryptoxanthin'' in their place, respectively;

■ c. In paragraph (d)(11)(iii), revising the sample label;

■ d. In paragraph (j)(5)(ii)(B), revising the sample label;

■ e. In paragraph (j)(13)(i) introductory text, adding a sentence at the end of the paragraph;

■ f. In paragraph (j)(13)(i)(B), removing ''1/16 inches'' and, in its place, adding ''1/16 inches'';

■ g. In paragraph (j)(13)(ii)(A)(*1*), revising the sample label;

■ h. In paragraph (j)(13)(ii)(A)(*2*), revising the sample label; and

■ i. In paragraph (j)(13)(ii)(B), revising the sentences that begin with ''Total carbohydrate—Total carb'', ''Vitamin—Vit'' and ''Potassium—Potas''.

The revisions read as follows:

§ 101.9

* * * * *

(d) * * *

(11) * * *

(iii) * * *

BILLING CODE 4164–01–P

Tabular Format

Nutrition Facts	Amount/serving	% Daily Value*	Amount/serving	% Daily Value*
10 servings per container	**Total Fat** 1.5g	2%	**Total Carbohydrate** 36g	13%
Serving size	Saturated Fat 0.5g	3%	Dietary Fiber 2g	7%
2 slices (56g)	*Trans* Fat 0.5g		Total Sugars 1g	
Calories per serving 170	**Cholesterol** 0mg	0%	Includes 1g Added Sugars	2%
	Sodium 280mg	12%	**Protein** 4g	

Vitamin D 0mcg 0% • Calcium 80mg 6% • Iron 1mg 6% • Potassium 470mg 10%
Thiamin 15% • Riboflavin 8% • Niacin 10%

*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

(j) * * *

(5) * * *

(ii) * * *

(B) * * *

Infants through 12 Months of Age

Nutrition Facts	
4 servings per container	
Serving size	**1 pack (70g)**
Amount per serving	
Calories	**25**
	% Daily Value
Total Fat 0g	**0%**
Saturated Fat 0g	
Trans Fat 0g	
Cholesterol 0mg	
Sodium 75mg	
Total Carbohydrate 5g	**5%**
Dietary Fiber 1g	
Total Sugars 3g	
Includes 0g Added Sugars	
Protein 0g	**0%**
Vitamin D 0mcg	0%
Calcium 10mg	4%
Iron 1mg	10%
Potassium 230mg	35%

(13) * * *

(i) * * * Foods in packages subject to requirements of paragraphs (j)(13)(ii)(A)(*1*) and (*2*) of this section do not require the information in paragraphs (d)(9) and (f)(5) related to the footnote, however the abbreviated footnote statement ''% DV = % Daily Value'' may be used.

* * * * *

(ii) * * *

(A) * * *

(*1*) * * *

Tabular Display for Small Packages

Nutrition Facts	Amount/serving	% DV	Amount/serving	% DV
about 3 servings per container	**Total Fat** 2g	**3%**	**Total Carb.** 15g	**5%**
Serving size 1/3 cup (56g)	Sat. Fat 1g	**5%**	Fiber 0g	**0%**
	Trans Fat 0.5g		Total Sugars 14g	
Calories per serving 90	**Cholesterol** 10mg	**3%**	Incl. 13g Added Sugars	**26%**
	Sodium 200mg	**9%**	**Protein** 3g	
	Vitamin D 0% • Calcium 6% • Iron 6% • Potassium 10%			

(*2*) * * *

Linear Display for Small Packages

Nutrition Facts Servings: 12, **Serv. size: 1 mint (2g),**
Amount per serving: **Calories 5,** **Total Fat** 0g (0% DV), Sat. Fat 0g (0% DV), *Trans* Fat 0g, **Cholest.** 0mg (0% DV), **Sodium** 0mg (0% DV), **Total Carb.** 2g (1% DV), Fiber 0g (0% DV), Total Sugars 2g (Incl. 2g Added Sugars, 4% DV), **Protein** 0g, Vit. D (0% DV), Calcium (0% DV), Iron (0% DV), Potas. (6% DV).

BILLING CODE 4164–01–C

(B) * * *

Total carbohydrate—Total carb. This abbreviation can also be used on dual-column displays as shown in paragraphs (e)(5), (e)(6)(i), and (e)(6)(ii) of this section.

* * * * *

Vitamin—Vit. This abbreviation can also be used on the standard vertical side-by-side display as shown in paragraph (d)(12) of this section.

Potassium—Pot. This abbreviation can also be used on the standard vertical side-by-side display as shown in paragraph (d)(12) of this section.

* * * * *

§ 101.45 [Amended]

■ 4. Amend § 101.45 as follows:

■ a. In paragraph (b)(1) introductory text, remove ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–800)'' and, in its place, add ''Office of Nutrition and Food Labeling (HFS–800)''; and

■ b. In paragraph (b)(1)(i), remove ''FDA Office of Food Labeling'' and, in its place, add ''Office of Nutrition and Food Labeling (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740''.

§ 101.80 [Amended]

■ 5. In § 101.80(c)(2)(iii)(C), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 101.81 [Amended]

■ 6. In § 101.81(c)(2)(ii)(A) introductory text, (c)(2)(ii)(A)(*5*), (c)(2)(ii)(B)(*1),* and (c)(2)(ii)(B)(*2),* remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 101.83 [Amended]

■ 7. In § 101.83(c)(2)(ii)(A)(*2*) and (c)(2)(ii)(B)(*2),* remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 101.93 [Amended]

■ 8. In § 101.93(a)(1), remove ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–810)'' and, in its place, add ''Office of Dietary Supplement Programs (HFS–810)''.

§ 101.108 [Amended]

■ 9. In § 101.108(c), remove ''Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

PART 106—INFANT FORMULA REQUIREMENTS PERTAINING TO CURRENT GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, RECORDS AND REPORTS, AND NOTIFICATIONS

■ 10. The authority citation for part 106 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 350a, 371.

§ 106.150 [Amended]

■ 11. In § 106.150(a)(1), remove ''21 U.S.C. 350d(i)'' and, in its place, add ''21 U.S.C. 350a(i)''.

PART 170—FOOD ADDITIVES

■ 12. The authority citation for part 170 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 346a, 348, 371.

§ 170.35 [Amended]

■ 13. Amend § 170.35 as follows:

■ a. In paragraph (b)(1), remove ''Division of Dockets Management'' and, in its place, add ''Dockets Management Staff''; and

■ b. In paragraph (b)(2), remove ''Division of Dockets Management'' and ''Division of Dockets Management's office'', and, in their place, add ''Dockets Management Staff'' and ''Dockets Management Staff's office'', respectively.

§ 170.38 [Amended]

■ 14. Amend § 170.38 as follows:

■ a. In paragraph (b)(1), remove ''Division of Dockets Management'' and, in its place, add ''Dockets Management Staff''; and

■ b. In paragraph (b)(2), remove ''Division of Dockets Management'' and ''Division of Dockets Management's office'' and, in their place, add ''Dockets Management Staff'' and ''Dockets Management Staff's office'', respectively.

§ 170.39 [Amended]

■ 15. Amend § 170.39 as follows:

■ a. In paragraph (d), remove ''Office of Premarket Approval'' and, in its place, add ''Office of Food Additive Safety''; ■ b. In paragraph (e), remove ''Division of Dockets Management'' wherever it appears and, in its place, add ''Dockets Management Staff'' and remove ''Office of Premarket Approval'' in the sixth sentence and, in its place, add ''Office of Food Additive Safety''; ■ c. In paragraph (g), remove ''Division of Dockets Management'' in the fifth

sentence and, in its place, add ''Dockets Management Staff''; and

■ d. In paragraph (h), remove ''Office of Premarket Approval'' in the first sentence and, in its place, add ''Office of Food Additive Safety''.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 16. The authority citation for part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

§ 172.105 [Amended]

■ 17. In § 172.105(b)(1), (2), and (3), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' where it appears and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.133 [Amended]

■ 18. In § 172.133(a)(2), remove ''Center for Food Safety and Applied Nutrition (HFS–200), 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.155 [Amended]

■ 19. In § 172.155(c), in the third sentence, remove ''Division of Product Policy (HFS–206), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.167 [Amended]

■ 20. Amend § 172.167 as follows:

■ a. In paragraph (b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ b. In paragraph (d)(2), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039, 301–436–2163'', and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''

§ 172.185 [Amended]

■ 21. In § 172.185(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.250 [Amended]

■ 22. In § 172.250(b)(3) footnote 1, remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.320 [Amended]

■ 23. Amend § 172.320 as follows:

■ a. In paragraph (g) introductory text, remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ b. In paragraph (g)(2), remove ''FDA Main Library, 10903 New Hampshire Ave., Silver Spring, MD 20993'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.345 [Amended]

■ 24. In § 172.345(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.379 [Amended]

■ 25. In § 172.379(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.380 [Amended]

■ 26. In § 172.380(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.665 [Amended]

■ 27. In § 172.665(d)(2), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.712 [Amended]

■ 28. In § 172.712(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.723 [Amended]

■ 29. Amend § 172.723 as follows:

■ a. In paragraph (b)(1), remove ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr.,

College Park, MD 20740, 240–402–1200'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday'';

■ b. In paragraph (b)(3), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.736 [Amended]

■ 30. Amend § 172.736 as follows:

■ a. In paragraph (b)(1), remove ''Office of Food Additive Safety, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''; and

■ b. In paragraph (b)(1), (2), and (3), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.780 [Amended]

■ 31. In § 172.780(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.785 [Amended]

■ 32. In § 172.785(b)(1), remove ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Center for Food Safety and Applied Nutrition's Library, 5001 Campus Dr., College Park MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.800 [Amended]

■ 33. Amend § 172.800 as follows:

■ a. In paragraph (b)(1), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''; and

■ b. In paragraph (b)(2), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.803 [Amended]

■ 34. In § 172.803(b) introductory text, remove ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.804 [Amended]

■ 35. Amend § 172.804 as follows:

■ a. In the introductory text, remove ''of the act'' and, in its place, add ''of the Federal Food, Drug, and Cosmetic Act'';

■ b. In paragraph (b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ c. In paragraph (c)(2), remove ''Office of Premarket Approval (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'', and remove ''Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.809 [Amended]

■ 36. In § 172.809(b), remove ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039, 240–402–1200'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.810 [Amended]

■ 37. In § 172.810, in the introductory paragraph, remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.812 [Amended]

■ 38. In § 172.812(a), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD

20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.829 [Amended]

■ 39. In § 172.829(b) introductory text, remove ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Center for Food Safety and Applied Nutrition's Library, 5001 Campus Dr., Rm. 1C–100, College Park, MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.831 [Amended]

■ 40. In § 172.831(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.833 [Amended]

■ 41. Amend § 172.833 as follows:

■ a. In paragraph (b)(2), remove ''Office of Food Additive Safety (HFS–200), Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039, 240–402–1200'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Center for Food Safety and Applied Nutrition's Library, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ b. In paragraph (b)(4), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.841 [Amended]

■ 42. In § 172.841(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.859 [Amended]

■ 43. In § 172.859, remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' wherever it appears and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.862 [Amended]

■ 44. In § 172.862(b)(1), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 172.864 [Amended]

■ 45. Amend § 172.864 as follows:

■ a. In paragraph (a)(3), remove ''Office of Food Additive Safety, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ b. In paragraph (b)(3) footnote 1, remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.867 [Amended]

■ 46. In § 172.867(b), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

■ 47. In § 172.869, revise the fourth sentence of paragraph (b) introductory text and paragraph (b)(1) to read as follows:

§ 172.869 Sucrose oligoesters.

* * * * *

(b) * * * Copies may be examined at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday, or at the National Archives and Records Administration (NARA). * * *

Specification	Limit	Method cited	Source for obtaining method
(1) Sucrose esters	Not less than 90%	"Method for Analyzing the Purity of Sucrose Fatty Acid Esters," Chemical Corp., June 17, 1998.	Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200.
*	*	*	*

* * * * *

§ 172.878 [Amended]

■ 48. In § 172.878(a)(3), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.882 [Amended]

■ 49. In § 172.882(a), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 172.886 [Amended]

■ 50. Amend § 172.886 as follows:

■ a. In paragraph (b) footnote 1, remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''; and

■ b. In paragraph (c)(2)(iii), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

■ 51. The authority citation for part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

§ 173.25 [Amended]

■ 52. In § 173.25(b)(2)(ii)(B), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.45 [Amended]

■ 53. In § 173.45(a), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.60 [Amended]

■ 54. In § 173.60(b)(3), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 173.65 [Amended]

■ 55. In § 173.65(b), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 173.73 [Amended]

■ 56. In § 173.73(a)(2), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

§ 173.115 [Amended]

■ 57. In § 173.115(b)(3), remove ''Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.160 [Amended]

■ 58. Amend § 173.160 as follows:

■ a. In paragraph (b)(2), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''; and

■ b. In paragraph (d), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.165 [Amended]

■ 59. Amend § 173.165 as follows:

■ a. In paragraph (b)(2), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''; and

■ b. In paragraph (d), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.228 [Amended]

■ 60. In § 173.228(a), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.280 [Amended]

■ 61. In § 173.280(c), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.300 [Amended]

■ 62. In § 173.300(a)(2), add ‘‘, 240–402–1200’’ after ‘‘Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740’’ and remove ‘‘Food and Drug Administration’s Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20994, 301–796–2039’’ and, in its place, add ‘‘Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday’’.

§ 173.310 [Amended]

■ 63. Amend § 173.310 as follows:

■ a. In paragraph (f) introductory text, remove ‘‘Food and Drug Administration’s Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039’’ and, in its place, add ‘‘Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday’’; and

■ b. In paragraph (f)(1), remove ‘‘FDA Main Library, 10903 New Hampshire Ave., Silver Spring, MD 20993’’ and, in its place, add ‘‘Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday’’.

§ 173.325 [Amended]

■ 64. In § 173.325(h), remove ‘‘Food and Drug Administration’s Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039’’ and, in its place, add ‘‘Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday’’.

■ 65. In § 173.340, in the table to paragraph (a)(4), revise the entry for ‘‘*n*-Butoxypoly(oxyethylene)-poly(oxypropylene)glycol’’ to read as follows:

§ 173.340 Defoaming agents.

* * * * *

(a) * * *

(4) * * *

Substances	Limitations
n-Butoxypoly(oxyethylene)- poly(oxypropylene)glycol	Viscosity range, 4,850–5,350 Saybolt Universal Seconds (SUS) at 37.8 °C (100 °F). The viscosity range is deteRmined by the method ‘‘Viscosity DeteRmination of *n*-butoxypoly(oxyethylene)-poly(oxypropylene) glycol’’ dated April 26, 1995, developed by Union Carbide Corp., P.O. Box 670, Bound Brook, NJ 08805, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the material incorporated by reference are available from the Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200, and may be examined at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday, or at the National Archives and Records Administration (NARA). For infoRmation on the availability of this material at NARA, call 202–741–6030, or go to: https://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

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§ 173.356 [Amended]

■ 66. In § 173.356(a), remove ‘‘Food and Drug Administration’s Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039’’ and, in its place, add ‘‘Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday’’.

■ 67. In § 173.357, in the table to paragraph (a)(2), revise the entry for ‘‘Polyethylenimine reaction product with 1,2-dichloroethane (CAS Reg. No. 68130–97–2)’’ to read as follows:

§ 173.357 Materials used as fixing agents in the immobilization of enzyme preparations.

* * * * *

(a) * * *

(2) * * *

Substances	Limitations
* * * *	* * *
Polyethylenimine reaction product with 1,2-dichloroethane (CAS Reg. No. 68130–97–2) is the reaction product of homopolymerization of ethylenimine in aqueous hydrochloric acid at 100 °C and of cross-linking with 1,2-dichloroethane. The finished polymer has an average molecular weight of 50,000 to 70,000 as determined by gel permeation chromatography. The analytical method is entitled ''Methodology for Molecular Weight Detection of Polyethylenimine,'' which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740, 240–402–1200, and may be examined at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*	May be used as a fixing material in the immobilization of glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer. May be used as a fixing material in the immobilization of: 1. Glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup, in accordance with § 184.1372 of this chapter. 2. Glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer. Residual ethylenimine in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography-mass spectrometry. The residual ethylenimine is determined by an analytical method entitled ''Methodology for Ethylenimine Detection in Polyethylenimine,'' which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Residual 1,2-dichloroethane in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography. The residual 1,2-dichloroethane is determined by an analytical method entitled, ''Methodology for Ethylenedichloride Detection in Polyethylenimine,'' which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, 5001 Campus Dr., College Park, MD 20740, 240–402–7500, or may be examined at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*
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§ 173.368 [Amended]

■ 68. In § 173.368(c), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.370 [Amended]

■ 69. In § 173.370(c), remove ''Division of Petition Review, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200'' and remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.375 [Amended]

■ 70. In § 173.375(a), remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 173.400 [Amended]

■ 71. In § 173.400(b) and (c)(2)(ii), remove ''Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'', and in its place add ''Office of Food Additive Safety (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1200''.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

■ 72. The authority citation for part 184 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

PART 184 [AMENDED]

■ 73. In part 184, remove ''Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, Third Floor, Silver Spring, MD 20993, 301–796–2039'' wherever it appears and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

§ 184.1538 [Amended]

■ 74. Amend § 184.1538 as follows:

■ a. In paragraph (b) introductory text, remove ''Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852'' and, in its place, add ''Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''; and

■ b. In paragraph (d), remove ''Division of Dockets Management (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857'' and, in its place, add ''Dockets

Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, between 9 a.m. and 4 p.m., Monday through Friday''.

PART 190—DIETARY SUPPLEMENTS

■ 75. The authority citation for part 190 continues to read as follows:

Authority: Secs. 201(ff), 301, 402, 413, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff), 331, 342, 350b, 371).

§ 190.6 [Amended]

■ 76. In § 190.6(a), remove ''Office of Nutritional Products, Labeling and Dietary Supplements (HFS–820), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740'' and, in its place, add ''Office of Dietary Supplement Programs (HFS–810), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740''.

Dated: March 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–05418 Filed 3–23–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 51

Environmental Criteria and Standards

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 24 of the Code of Federal Regulations, Parts 0 to 199, revised as of April 1, 2022, in section 51.201, reinstate the definition of ''Hazardous substances'' to read as follows:

§ 51.201 Definitions.

* * * * *

Hazardous substances—means petroleum products (petrochemicals) and chemicals that can produce blast overpressure or thermal radiation levels in excess of the standards set forth in § 51.203. A specific list of hazardous substance is found in appendix I to this subpart.

* * * * *

[FR Doc. 2023–06294 Filed 3–23–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Taxes

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.641–1.850), revised as of April 1, 2022, amend section 1.704–1T by adding paragraph (b)(2)(iv)(*g*), reserved paragraphs (b)(2)(iv)(*h*) through (*s*), paragraph (b)(3), reserved paragraphs (b)(4) through (6), paragraph (c), and reserved paragraphs (d) through (e), to read as follows:

§ 1.704–1T Partner's distributive share (temporary).

* * * * *

(*g*) For further guidance, see § 1.704–1(b)(2)(iv)(*g*) through (*s*).

(*h*) through (*s*) [Reserved]

(3) For further guidance, see § 1.704–1(b)(3) through (6).

(4) through (6) [Reserved]

(c) For further guidance, see § 1.704–1(c) through (e).

(d) through (e) [Reserved]

* * * * *

[FR Doc. 2023–06296 Filed 3–23–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 19

Distilled Spirits Plants

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 27 of the Code of Federal Regulations, Parts 1 to 39, revised as of April 1, 2022, in section 19.230, in paragraph (d), reinstate the text as the third sentence to read as follows:

§ 19.230 Conditions requiring prepayment of taxes.

* * * * *

(d) * * * The proprietor must prepay the tax to the extent that a withdrawal would cause the outstanding tax liability to exceed the limits of coverage under the bond. * * *

* * * * *

[FR Doc. 2023–06295 Filed 3–23–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2023–0001; 234E1700D2; ETISF0000.EAQ000 EEEE500000]

RIN 1014–AA58

Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Civil Penalty Inflation Adjustment

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This final rule adjusts the level of the maximum daily civil monetary penalty contained in the Bureau of Safety and Environmental Enforcement (BSEE) regulations for violations of the Outer Continental Shelf Lands Act (OCSLA), in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (FCPIA of 2015) and Office of Management and Budget (OMB) guidance. The civil penalty inflation adjustment, using a 1.07745 multiplier, accounts for one year of inflation based on the Consumer Price Index for all Urban Consumers (CPI–U) spanning from October 2021 to October 2022.

DATES: This rule is effective on March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Janine Marie Tobias, Safety and Enforcement Division, Bureau of Safety and Environmental Enforcement, (202) 208–4657 or by email: *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

The OCSLA, at 43 U.S.C. 1350(b)(1), directs the Secretary of the Interior (Secretary) to adjust the OCSLA maximum daily civil penalty amount at least once every three years to reflect any increase in the CPI–U to account for inflation. On November 2, 2015, the President signed into law the FCPIA of 2015 (Sec. 701 of Pub. L. No. 114–74), which required Federal agencies to adjust the level of civil monetary penalties found in their regulations with an initial ''catch-up'' adjustment

through rulemaking, if warranted, and then to make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. Agencies were required to publish the first annual inflation adjustments in the **Federal Register** by no later than January 15, 2017, and must publish recurring annual inflation adjustments by no later than January 15 of each subsequent year.

BSEE last updated the maximum daily civil penalty amounts in BSEE's regulations for OCSLA violations by a final rule published and effective on February 24, 2022. (*See* 87 FR 10306). Consistent with OMB guidance, BSEE's final rule implemented the inflation adjustments required by the FCPIA of 2015 through October 2021.

The OMB Memorandum M–23–05 (*Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015;* available at *https://www.whitehouse.gov/wp-content/uploads/2022/12/M-23-05-CMP-CMP-Guidance.pdf*) explains agency responsibilities for: identifying applicable penalties and performing the annual adjustment; publishing revisions to regulations to implement the adjustment in the **Federal Register**; applying adjusted penalty levels; and performing agency oversight of inflation adjustments.

BSEE is promulgating this 2023 inflation adjustment for the OCSLA maximum daily civil penalties as a final rule pursuant to the provisions of the FCPIA of 2015 and OMB's guidance. A proposed rule is not required because the FCPIA of 2015 expressly exempted the annual inflation adjustments implemented pursuant to the FCPIA of 2015 from the pre-promulgation notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553 *et seq.* (the APA), allowing those adjustments to be published as final rules. Specifically, the FCPIA of 2015 states that agencies shall adjust civil monetary penalties ''notwithstanding Section 553 of the Administrative Procedure Act.'' (FCPIA of 2015 at § 4(b)(2)). This interpretation of the FCPIA of 2015 is confirmed by OMB Memorandum M–23–05 at 3–4 (''This means that the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.'').

II. Calculations of Adjustments of This Rule

In accordance with the FCPIA of 2015 and the guidance provided in OMB Memorandum M–23–05, BSEE has calculated the necessary inflation adjustment for the maximum daily civil monetary penalty amount in 30 CFR 250.1403 for violations of OCSLA. The previous OCSLA civil penalty inflation adjustment accounted for inflation through October 2021. The required annual civil penalty inflation adjustment promulgated through this rule accounts for inflation through October 2022.

Annual inflation adjustments are based on the percent change between the CPI–U for the October preceding the date of the adjustment and the prior year's October CPI–U. Consistent with the guidance in OMB Memorandum M–23–05, BSEE divided the October 2022 CPI–U by the October 2021 CPI–U to calculate the multiplying factor. In this case, the October 2022 CPI–U (298.012) divided by the October 2021 CPI–U (276.589) is 1.07745. OMB Memorandum M–23–05 confirms that this is the proper multiplier. (OMB Memorandum M–23–05 at 1, n.4).

The FCPIA of 2015 requires that BSEE adjust the OCSLA maximum daily civil penalty amount for inflation using the applicable 2023 multiplier (1.07745). Accordingly, BSEE multiplied the existing OCSLA maximum daily civil penalty amount ($48,862) by 1.07745 to arrive at the new maximum daily civil penalty amount ($52,646.36). The FCPIA of 2015 requires that the resulting amount be rounded to the nearest $1.00 at the end of the calculation process. Accordingly, the adjusted OCSLA maximum daily civil penalty for 2023 is $52,646.

The adjusted penalty levels take effect immediately upon publication of this rule. Pursuant to the FCPIA of 2015, the increase in the OCSLA maximum daily civil penalty amount applies to civil penalties assessed after the date the increase takes effect, even when the associated violation(s) predates such increase. Consistent with the provisions of OCSLA and the FCPIA of 2015, this rule adjusts the following maximum civil monetary penalty per day per violation as follows:

CFR citation	Description of the penalty	Current maximum penalty	Multiplier	Adjusted maximum penalty
30 CFR 250.1403	Failure to comply per-day, per-violation	$48,862	1.07745	$52,646

This rulemaking does not address any updates to the civil penalties related to Federal Oil and Gas Royalty Management Act (FOGRMA) violations. Per 86 FR 34132, BSEE regulations at 30 CFR part 250 Subpart N addressing maximum FOGRMA civil penalties (30 CFR 250.1453) cross-reference regulations of the Office of Natural Resources Revenue (ONRR) at 30 CFR 1251.52 that set maximum daily civil penalty amounts for FOGRMA violations that are not timely corrected. Please refer to the cross-referenced ONRR regulations for the most up to date FOGRMA civil penalty amounts.

III. Procedural Requirements

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

Executive Order (E.O.) 12866 provides that the OMB Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant. (*See* OMB Memorandum M–23–05 at 3).

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

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. (*See* 5 U.S.C. 603(a) and 604(a)). The FCPIA of 2015 expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment. (*See* FCPIA of 2015 at § 4(b)(2); OMB Memorandum M–23–05 at 3–4). Thus, the RFA does not apply to this rulemaking.

C. Congressional Review Act/Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act. This rule:

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

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

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

D. Unfunded Mandates Reform Act

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

E. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. To the extent that State and local governments have a role in Outer Continental Shelf activities, this rule will not affect that role. Therefore, a federalism summary impact statement is not required.

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

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

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

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

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

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department of the Interior's consultation policy, under Departmental Manual Part 512 Chapters 4 and 5, and under the criteria in E.O. 13175. We have determined that it has no substantial direct effects on Federally-recognized Indian Tribes or Alaska Native Claims Settlement Act (ANCSA) Corporations, and that consultation under the Department of the Interior's Tribal and ANCSA consultation policies is not required.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

J. National Environmental Policy Act

This rule does not constitute a major Federal action under the National Environmental Policy Act of 1969 (NEPA) because of the non-discretionary nature of the civil penalty adjustment as required by law (*see* 40 CFR 1508.1(q)(1)(ii)). The FCPIA of 2015 requires BSEE to annually adjust the amounts of its civil penalties to account for inflation as measured by the Department of Labor's Consumer Price Index. Accordingly, BSEE has no discretion in the execution of the civil penalty adjustments reflected in this final rule. Because this rule is not a major Federal action, it is not subject to the requirements of NEPA. Even if this were a discretionary action subject to NEPA, which it is not, a detailed statement under NEPA would nevertheless not be required because, as a regulation of an administrative nature, this rule would otherwise be covered by a categorical exclusion (*see* 43 CFR 46.210(i)). BSEE has determined that the rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215 that would prevent reliance on the categorical exclusion. Therefore, a detailed statement under NEPA is not required.

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

This rule is not a significant energy action under the definition in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Continental Shelf—mineral resources, Continental Shelf—rights-of-way, Reporting and recordkeeping requirements, Sulfur.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons given in the preamble, the BSEE amends title 30, chapter II, subchapter B, part 250 of the Code of Federal Regulations as follows.

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for 30 CFR part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

■ 2. Revise § 250.1403 to read as follows:

§ 250.1403 What is the maximum civil penalty?

The maximum civil penalty is $52,646 per day per violation.

[FR Doc. 2023–05990 Filed 3–23–23; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 542

Publication of Syria Web General License 23

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Syrian Sanctions Regulations: GL 23, which was previously made available on OFAC's website.

DATES: GL 23 was issued on February 9, 2023 and has an expiration date of August 8, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On February 9, 2023, OFAC issued GL 23 to authorize certain transactions otherwise prohibited by the Syrian Sanctions Regulations, 31 CFR part 542. The GL was made available on OFAC's website (*www.treas.gov/ofac*) when it was issued. The GL has an expiration date of August 8, 2023. The text of the GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Syrian Sanctions Regulations

31 CFR Part 542

GENERAL LICENSE NO. 23

Authorizing Transactions Related to Earthquake Relief Efforts in Syria

(a) Except as provided in paragraph (b) of this general license, all transactions related to earthquake relief efforts in Syria that would otherwise be prohibited by the Syrian Sanctions Regulations, 31 CFR part 542 (SySR), are authorized through 12:01 p.m. eastern daylight time, August 8, 2023.

Note 1 to paragraph (a). The authorization in paragraph (a) of this general license includes the processing or transfer of funds on behalf of third-country persons to or from Syria in support of the transactions authorized by paragraph (a) of this general license. U.S. financial institutions and U.S. registered money transmitters may rely on the originator of a funds transfer with regard to compliance with paragraph (a) of this general license, provided that the financial institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this general license.

(b) This general license does not authorize:

(1) Any transactions prohibited by section 542.208 of the SySR (prohibiting importation into the United States of petroleum or petroleum products of Syrian origin); or

(2) Any transactions involving any person whose property and interests in property are blocked pursuant to the SySR, other than persons who meet the definition of the term *Government of Syria,* as defined in section 542.305(a) of the SySR, unless separately authorized.

Note 2 to General License 23. Nothing in this general license relieves any person from compliance with any other Federal laws or requirements of other Federal agencies.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Dated: February 9, 2023.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.

[FR Doc. 2023–05783 Filed 3–23–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0232]

RIN 1625–AA87

Security Zone; Congressional Visit, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for certain navigable waters of Biscayne Bay and the Atlantic Intracoastal Waterway near Miami Beach, Florida. The moving security zone will encompass all navigable waters within 100 yards of the M/V BISCAYNE LADY. This action is necessary to protect an official party, public, and surrounding waterways from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Miami, or a designated representative.

DATES: This rule is effective from 6 p.m. through 11 p.m. on March 25, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0232 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 LT Benjamin Adrien, Waterways Management Division, U.S. Coast Guard; telephone: (305) 535–4307, email: *Benjamin.d.adrien@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 and contrary to the public interest. Local authorities asked the Coast Guard to establish the security zone within several days of the request, therefore the Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule, since this rule is needed by March 25, 2023. This rule s needed to prevent vessels from approaching the VIP location in Miami Beach, FL. It would be contrary to public interest to postpone establishing the temporary security zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to prevent interference with the VIP visit to Miami Beach, FL.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70124. The Captain of the Port (COTP) Miami has determined the VIP visit on March 25, 2023 presents a potential target for terrorist acts, sabotage, or other subversive acts, accidents, or other causes of a similar nature. This moving security zone is necessary to protect the

official party, public, and surrounding waterways surrounding the M/V BISCAYNE LADY in Miami Beach, Florida.

IV. Discussion of the Rule

This rule establishes a moving security zone from 6 p.m. through 11 p.m. on March 25, 2023. The moving security zone will cover all navigable waters within 100 yards of the M/V BISCAYNE LADY. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP Miami or a designated representative. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under 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 and location of the security zone. The moving security zone is limited in size and location as it will encompass all navigable waters within 100 yards of the M/V BISCAYNE LADY, transiting through the ICW in the vicinity of Miami Beach, FL. Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the security zone without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding area during the enforcement period. Furthermore, the rule will allow vessels to seek permission to enter the zone. Persons and vessels may only enter, transit through, anchor in, or remain within the security zone during the enforcement period if authorized by the Captain of the Port Miami or a designated representative.

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, 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 temporary moving security zone lasting approximately 5 hours that will prohibit entry of persons or vessels during the VIP visit in Miami Beach, Florida. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

A Draft Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 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.T07–0232 to read as follows:

§ 165.T07–0232 Security Zone; VIP Visit, Miami Beach, FL.

(a) *Locations:* The following is a temporary moving security zone:

(1) All waters within 100 yards of the M/V BISCAYNE LADY, Miami Beach, FL from 6 p.m. until 11 p.m. on March 25, 2023.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP in the enforcement of the security zone.

(c) *Regulations.* (1) No person or vessel will be permitted to enter, transit, anchor, or remain within the security zone described in paragraph (a) of this section unless authorized by the COTP Miami or a designated representative. If authorization is granted, persons and/or vessels receiving such authorization must comply with the instructions of the COTP Miami or designated representative.

(2) Persons who must notify or request authorization from the COTP may do so by telephone at (305) 535–4313 or may contact a designated representative via VHF radio on channel 16.

(d) *Enforcement Period.* This rule will be enforced from 6 p.m. through 11 p.m. on March 25, 2023.

Dated: March 17, 2023.

F.J. Del Rosso,

Captain, U.S. Coast Guard, Acting, Captain of the Port Miami.

[FR Doc. 2023–05970 Filed 3–23–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0201]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO) from March 23, 2023, through March 29, 2023. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port San Francisco or a designated representative. All persons and vessels operating within the safety zone must comply with all directions given to them by the Captain of the Port San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on March 23, 2023, until 11:59 p.m. on March 29, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant William Harris, Coast Guard Sector San Francisco, Waterways Management Division, 415–399–7443, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 a.m. on March 23, 2023, until 11:59 p.m. on March 29, 2023, or as announced via marine local broadcasts. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198, specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier 2 in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement periods, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you must comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

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

Dated: March 15, 2023.

Taylor Q. Lam,

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

[FR Doc. 2023–05773 Filed 3–22–23; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

37 CFR Parts 401 and 404

[Docket No.: 230315–0076]

RIN 0693–AB66

Rights to Federally Funded Inventions and Licensing of Government Owned Inventions

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Institute of Standards and Technology (NIST) announces revisions to regulations in order to make several technical corrections; reorganize certain subsections; remove outdated and/or unnecessary sections; institute a reporting requirement on federal agencies; and provide clarifications on definitions, communications, process for exercising march-in rights, filing of provisional patent applications, electronic filing of Bayh-Dole related reporting, the purpose of royalties on licenses from the Federal Government, and the processes for granting exclusive, co-exclusive, and partially exclusive licenses and for appeals. NIST has not

adopted in this final rule a provision in the proposed rule regarding exercising march-in rights on the sole basis of product pricing. Instead, NIST intends to engage with stakeholders and agencies with the goal of developing a comprehensive framework for agencies considering the use of march-in provisions.

DATES: This rule is effective April 24, 2023.

FOR FURTHER INFORMATION CONTACT: Bethany Loftin, via email at *bethany.loftin@nist.gov* or by telephone at 301–975–0496.

SUPPLEMENTARY INFORMATION:

Background

This final rule is promulgated under the University and Small Business Patent Procedures Act of 1980, Public Law 96–517 (as amended), codified at title 35 of the United States Code (U.S.C.) 200 *et seq.,* and commonly known as the ''Bayh-Dole Act'' or ''Bayh-Dole,'' and its implementing regulations, found at title 37 Code of Federal Regulations (CFR) parts 401 and 404.

The rule shall apply to all new funding agreements as defined in 37 CFR 401.2(a) that are executed after the effective date of the rule. The rule shall not apply to a funding agreement in effect on or before the effective date of the rule, provided that if such existing funding agreement is thereafter amended, the funding agency may, in its discretion, make the amended funding agreement subject to the rule prospectively.

On January 4, 2021, NIST published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 35) requesting public comments on proposed revisions to the regulations at 37 CFR parts 401 and 404, as well as general comments relating to federal technology transfer practices. The NPRM described the statutory framework for the proposed rule revisions under the Bayh-Dole Act and its implementing regulations. NIST received 81,253 submissions during the public comment period, which closed on April 5, 2021, including comments, questions, suggestions, and recommendations from, *inter alia,* individual members of the public, public and private universities, professional associations, research institutions, and non-profit foundations. Of the 81,253 submissions received during the public comment period, the largest percentage of the comments related to the proposed addition to 37 CFR 401.6(e) regarding exercising march-in rights on the sole basis of product pricing. A discussion of these comments and NIST's response is included in Comment 8 below. During the public comment period, on February 25, 2021, NIST also held a public webinar in which the proposed changes were reviewed, and public statements were accepted and made a part of the record. NIST appreciates and has considered the comments received, and this final rule reflects a number of changes to the regulations proposed in the NPRM based on this feedback.

Additionally, severability clauses have been added to both Parts 401 and 404 in this final rule. In the event that any part of the regulations is stayed or determined to be invalid, the remaining provisions should be severable and remain in effect.

Response to Comments

All submissions were carefully reviewed, and NIST thanks the public for its engagement. NIST's responses to comments within the scope of this rulemaking have been correlated by topic and are summarized below.

1. *Comment:* NIST's legal authority to promulgate regulations implementing the Bayh-Dole Act was questioned by one commenter, who asserted that the regulations should instead emanate directly from the Department of Commerce.

Response: Authority to issue these regulations is granted to the Secretary of Commerce under 35 U.S.C. 206 and has been properly delegated to the Director of NIST under Department of Commerce Department Organization Order 30–2A.

2. *Comment:* The NPRM stated that the rulemaking was not an ''economically significant'' regulatory action under Executive Order 12866, ''as it does not have an effect on the economy of $100 million or more in any one year . . . .'' This determination was questioned by a commenter based on the regulations' application ''to all Federal agencies,'' and the large number of inventions and patents in which the Federal Government maintains an interest.

Response: NIST determined at the proposed rule stage that this rulemaking is not an economically significant regulatory action under section 3(f)(1) of Executive Order 12866. NIST conducted an analysis, by looking at all the proposed changes and the effect of those changes on the existing regulations, and concluded that the changes to the regulations are primarily clarifications and a reorganization of existing content. NIST has compared the text of the proposed rule to the text of this final rule and affirms its earlier determination that the regulatory changes are not economically significant.

3. *Comment:* Two commenters objected to the proposed removal of § 401.1(a), which describes the effect of third-party funding on the ownership of a ''subject invention'' and the treatment of any invention created under a project that is closely related to, but separate from, a project funded by the Federal Government. The objecting commenters requested that these clarifications be maintained, as they are of use in determining whether or not an invention is a ''subject invention.''

Response: NIST has re-inserted the introductory language at § 401.1(a) to maintain this additional guidance and clarification.

4. *Comment:* Multiple commenters were supportive of, objected to, and/or requested additional clarification on the proposed revisions to the newly designated § 401.6(a)(1) (previously § 401.6(b)). Those who objected or requested additional information generally expressed concern that this process would be adversarial or asked that other title holders, including exclusive licensees, also be permitted to attend the consultation.

Response: Both the original and the revised versions of this section establish an informal process between a funding agency and a contractor prior to the agency's initiation of march-in procedures, though the original version limited this process to ''informal written or oral comments from the contractor as well as information relevant to the matter.'' The proposed language expands this process to a full informal consultation and was more explicit about the nature of the consultation, explaining that the additional factfinding would allow the agency to better ''understand the nature of the issue and consider possible actions other than exercising march-in rights.'' It was not the intent of this addition to create an adversarial process; the intent was to encourage informal consultation and to potentially avoid the need to proceed to formal march-in procedures. Regarding commenters' requests to include licensees in the consultation, given its informal nature, agencies have discretion to include additional parties, if necessary. Therefore, NIST determined that explicitly including or requiring additional parties was unnecessary. To address commenters' concerns regarding the nature of the informal consultation, NIST has replaced ''actions'' with ''alternatives'' in this final rule and added the words ''may also'' to the statement regarding the funding agency's consideration of march-in alternatives.

5. *Comment:* One commenter objected to the requirement under the newly designated § 401.6(a)(1) (previously § 401.6(b)) that the contractor respond to an agency request for informal consultation within 30 days, expressing the opinion that contractors should be allowed a longer amount of time in which to respond.

Response: This 30-day response period was present in the previous regulations but required the contractor to provide written comments to the agency within 30 days. The revision provides this same 30-day period, but only requires the contractor to provide notice to the agency that the contractor wishes to proceed with informal consultation. Given that this revision only requires the contractor to make a determination regarding whether to participate in an informal consultation and not the time required to collect and compose comments, 30 days is a sufficient amount of time for a contractor to provide such notice, and NIST declines to lengthen the response period in this final rule.

6. *Comment:* A proposed revision to the newly designated § 401.6(a)(1) (previously § 401.6(b)) increased the amount of time for an agency to issue a decision as to whether or not it will pursue march-in rights following an informal consultation with a contractor from 60 days to 120 days. A commenter questioned the necessity of this longer response period.

Response: The longer period is believed appropriate to facilitate and ensure thorough agency consideration of all issues and supplementary information submitted by the contractor following informal consultation; thus, NIST has maintained the NPRM's extension from 60 days to 120 days in this final rule.

7. *Comment:* Several comments were received relating to newly designated § 401.6(a)(4) (previously § 401.6(e)), which concerns the confidentiality of information obtained during march-in proceedings. Concern was expressed over the addition of language that allows an agency to disclose information obtained during a march-in proceeding to persons outside the Federal Government when ''otherwise required by law.''

Response: The intent of this additional language is to put contractors on notice that other laws may require disclosure of the information, and compliance with such laws is mandatory, whether or not the phrase in question is added to the regulations. NIST has maintained the phrase in this final rule.

8. *Comment:* The large majority of comments received related to the new language proposed at § 401.6(e). (The NPRM redesignated the previous § 401.6(e), which relates to fact-finding during the march-in process, as the new § 401.6(a)(4)). The proposed new § 401.6(e) of the NPRM stated that ''[m]arch-in rights shall not be exercised exclusively based on the business decisions of the contractor regarding the pricing of commercial goods and services arising from the practical application of the invention.'' These comments ranged in content. Many commenters stated that the provision should be removed and that the Federal Government's right to march-in *should* be exercised solely on the basis of product pricing. Some expressed general support for the addition, and others requested additional changes to further clarify and ensure that the Federal Government would *not* march-in based on product pricing.

Response: The large number of comments received on this issue raise questions that warrant further consideration. Consistent with this, on July 9, 2021, the President issued Executive Order 14036 (''Promoting Competition in the American Economy''), which, *inter alia,* directed the Secretary of Commerce, acting through the Director of NIST and in light of the policies set forth in the Executive Order, to consider not finalizing ''any provisions on march-in rights and product pricing'' in the NPRM. Given the comments received, NIST's examination of them, and the Executive Order, NIST removed this provision from the final rule. The circumstances in which an agency might exercise its right to march-in are enumerated in the regulations at § 401.14(j) and include (a) a contractor's failure to take action to achieve practical application of a subjection invention, (b) a contractor's failure to meet health or safety needs, (c) a contractor's failure to meet public use requirements, and (d) a contractor's failure to comply with the preference for United States industry. NIST intends to engage with stakeholders and agencies with the goal of developing a comprehensive framework for agencies considering the use of march-in provisions. In this final rule, § 401.6(e) of the NPRM is removed, and § 401.6(f) of the NPRM is redesignated as § 401.6(e).

9. *Comment:* The NPRM reorganized § 401.13, relocating certain paragraphs (*e.g.,* § 401.13(a) became § 401.14(c)(6)), removing outdated portions, and retitling the section from ''Administration of patent rights clauses'' to ''Confidentiality of contractor submissions.'' Several commenters that were supportive of the revisions asked NIST to expand the confidentiality provisions to apply to *all* information related to ''subject inventions.''

Response: This final rule maintains the revisions to § 401.13 that were proposed in the NPRM, which includes confidentiality protections for contractor submissions under many circumstances. While NIST appreciates the importance of maintaining the confidentiality of information related to inventions for which patent protection has not yet been sought as well as business information, NIST cannot expand confidentiality provisions beyond those provided in the Bayh-Dole statute and therefore has not expanded the confidentiality provisions in this final rule.

10. *Comment:* Several commenters objected to the proposed change in § 401.14(a)(2) amending the definition of ''subject invention.'' These changes included a rephrasing of the definition and the incorporation of a clarifying statement explaining that ''[a]n invention that is conceived and reduced to practice without the use of any federal funds is not considered a subject invention.''

Response: NIST has removed this revision from the final rule, as the additional guidance regarding inventions conceived without the use of any federal funds was reinstated at § 401.1(a), as discussed in Comment 3 above.

11. *Comment:* The NPRM revised § 401.14(c)(3), creating (c)(3)(i)–(iv). Several commenters expressed concern with the proposed additional language in § 401.14(c)(3)(ii) requiring that each provisional application filed after a first provisional application ''contain additional written description of the subject invention not previously disclosed in a patent application.'' Commenters pointed to the increasingly common practice of re-filing provisional applications since the United States moved to a first-to-file patent system, and there was also confusion expressed as to whether prior agency approval would be needed before the filing of additional provisional patent applications.

Response: NIST appreciates the submitted comments and the need for contractor flexibility in developing patent filing strategy. Therefore, NIST has removed the requirement that additional written description of the subject invention be included in subsequent provisional patent filings. NIST has further revised this provision to clarify that additional provisional

patent applications may be filed until the nonprovisional application is timely filed in accordance with § 401.14(c)(3)(i) and allowing for additional extensions, if needed, granted under § 401.14(c)(5). Nothing in these regulations supersedes any deadlines or requirements imposed by the United States Patent and Trademark Office.

12. *Comment:* Under § 401.14(c)(3)(iv) and if required by the funding agency, a contractor must provide information related to patent filings, including the filing date, application number, title, a copy of the patent application, patent number, and issue date. One commenter requested that this section be revised to remove the discretionary aspect, instead requiring each agency to ask for this information.

Response: NIST notes that many agencies already request this information as a matter of course. However, NIST leaves the collection of specific information to the discretion of funding agencies.

13. *Comment:* Several commenters supported the revision to § 401.14(d) allowing agencies to release the contractor from the requirement to convey title to a subject invention to the agency, although many commenters requested that there be a timeframe in which the agency must respond to a request for release under this provision.

Response: NIST will work with the interagency community to provide additional guidance on the waiver process, as needed. Because each agency concerned must adhere to different internal requirements and processes in furtherance of their unique missions, a specific time limit for agency response would not be advisable, and NIST declines to impose the same in this final rule.

14. *Comment:* At § 401.14(k), (k)(4) of the regulations was revised and divided into the newly designated sections (k)(4) and (k)(5). Both the previous regulations and the NPRM contained the requirement at § 401.14(k)(4) that the contractor make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and, when appropriate, give preference to a small business firm when licensing a subject invention. Part of the previous § 401.14(k)(4) and the NPRM's newly designated § 401.14(k)(5) require that the contractor ''negotiate changes to its licensing policies, procedures, or practices'' with the funding agency if the funding agency's review of the contractor's licensing programs and decisions discloses that the contractor could take reasonable steps to more effectively implement the small business consideration requirements. Several commenters requested an amendment to the language changing ''negotiate'' to ''consider.''

Response: The language in question was not proposed for revision, as the requirement that small business firms be given a preference in the licensing of subject inventions is statutory, 35 U.S.C. 202. Requiring a contractor to only ''consider'' reasonable changes to implement this statutory requirement would be inadequate; thus, NIST has maintained the requirement that a contractor negotiate such reasonable changes with a funding agency in this final rule.

15. *Comment:* One commenter objected to the removal of § 401.15, stating that guidance on deferred determinations should be retained.

Response: The guidance on deferred determinations previously found at § 401.15 has been substantially retained in § 401.9 of both the proposed and final rule.

16. *Comment:* Previously entitled ''Electronic filing,'' § 401.16 was revamped in the NPRM and retitled ''Federal agency reporting requirements.'' Its requirements relate to information that must be reported by agencies internally, within the Federal Government. Several commenters requested the addition of language that would limit the information being reported to only that data that is already available within the iEdison system, as well as text that would require the agencies to pull the information from iEdison when fulfilling their reporting obligations so as to avoid creating an additional reporting burden for contractors.

Response: As noted by the commenters, many of the data points for which reporting is required under § 401.16 are currently available via iEdison, and NIST intends to incorporate the remainder in a forthcoming update to the iEdison system to minimize the burden on agencies in fulfilling this requirement. However, while NIST appreciates the commenters' concerns and strongly supports the use of iEdison by funding agencies, NIST cannot mandate or compel agency use of iEdison, nor can NIST dictate the manner in which the agencies collect data. Accordingly, NIST declines to make the suggested revision in this final rule.

17. *Comment:* At § 404.2, entitled ''Policy and objective,'' the NPRM amended and expanded the previous text. Comments were received objecting to the proposed revisions, observing the text's brevity as compared to the stated objectives in 35 U.S.C. 200 and questioning its consistency with the definition of ''practical application.''

Response: The text of 35 U.S.C. 200 remains governing law. The revisions at § 404.2 do not alter the definition of ''practical application'' found at § 401.2. The amended text does not consider payments as achieving ''practical application''; it encourages the Federal Government to consider how the utilization of payments under a license agreement may encourage licensees to develop an invention in order to advance practical application and to promote commercialization by the licensee. NIST has slightly reworded § 404.2, in order to clarify the intent in this final rule.

18. *Comment:* One commenter objected to the removal of § 404.4 and requested additional language specific to certain action items, diseases, and/or products. NIST also received a comment from a federal agency to re-insert § 404.4, because the requirement to notify the public of federally owned inventions available for license is not found elsewhere within the regulation.

Response: The regulations are meant to apply to an invention without regard to invention type or industry sector, and therefore, NIST declines to add references to specific sectors, diseases, or products. However, although much of this section is already substantively included elsewhere, NIST agrees that the requirement to publish federally owned inventions is not. NIST will re-insert § 404.4 in its entirety keeping the language unchanged from the previous regulations.

19. *Comment:* Many commenters objected to the NPRM's proposed amendment of § 404.7(a)(1). The proposed rule retained the requirement that, prior to granting an exclusive, co-exclusive, or partially exclusive license on a Government owned invention, the Government must first publish a notice identifying the invention on which the proposed license is to be granted. However, the proposed rule removed the requirement that the identity of the prospective licensee of a Government owned invention also be published.

Response: In order to keep the public apprised of prospective licensees of Government owned inventions, NIST has reincorporated the requirement that the identity of such a prospective licensee be published alongside the invention into this final rule.

20. *Comment:* One commenter objected to the NPRM's proposed rewording at § 404.7(a)(3) (previously § 404.7(a)(1)(iii)). Under the previous language, before granting an exclusive, co-exclusive, or partially exclusive license to a Government owned

invention, it was required that ''[t]he Federal agency ha[d] not determined that the grant of such a license [would] tend substantially to lessen competition or create or maintain a violation of the Federal antitrust laws.'' In the NPRM, the requirement of non-determination was altered into a requirement of affirmative determination, such that the license could be granted after ''[t]he Federal agency has determined that the grant of such a license will not tend to substantially lessen competition or create or maintain a violation of the Federal antitrust laws.''

Response: The proposed changes in the NPRM were meant to mirror the wording in the corresponding statute at 35 U.S.C. 209(a)(4). While appreciative of the alternative language recommended, NIST only made one revision to the language proposed in the NPRM in this final rule, which moved the word ''to'' before the word ''lessen'' in order to mirror the exact wording at 35 U.S.C. 209(a)(4).

21. *Comment:* Several commenters objected to the NPRM's proposed addition of language at § 404.11(a)(3); § 404.11(a) lists the parties who may appeal certain agency decisions or determinations relating to Government owned inventions.

Response: Under this section, certain parties may appeal an agency decision or determination concerning the grant, denial, modification, or termination of a license, which, under § 404.5, an agency may grant ''only if the applicant has supplied the Federal agency with a satisfactory plan for development or marketing of the invention, or both, and with information about the applicant's capability to fulfill the plan.'' The added language at § 404.11(a)(3) provides that a person who files a written objection to an agency's notice of proposed licensing also demonstrate that the proposed license would deny that person the opportunity to commercialize the invention. If a third party who is not denied the opportunity to commercialize the invention opposes a proposed license, they need only find another party willing to license the invention to appeal. Requiring less would result in an appeal with the potential to result in no license or commercialization. Therefore, this additional language is maintained in the final rule.

Changes From the Proposed Rule

1. Re-insert the guidance and examples in § 401.1(a).

2. Remove § 401.2(m)(4) from the definition of ''patent application'' and redesignate the proposed § 401.2(m)(5) as § 401.2(m)(4).

3. Remove § 401.2(n)(3) from the definition of ''initial patent application,'' redesignate §§ 401.2(n)(4) and (5) as §§ 401.2(n)(3) and (4) and remove ''which designates the United States'' from the newly designed § 401.2(n)(3).

4. Revise the first sentence of § 401.6(a)(1) to add ''may also'' and replace ''actions'' with ''alternatives''.

5. Remove the proposed addition at § 401.6(e) regarding the consideration of pricing of commercial goods and services and redesignate the proposed § 401.6(f) as § 401.6(e).

6. Remove the proposed revisions to the definition of ''subject invention'' at § 401.14(a)(2).

7. Revise § 401.14(c)(3) by moving the last sentence of § 401.14(c)(3)(i) to § 401.14(c)(3)(ii).

8. Revise § 401.14(c)(3)(ii) to remove the requirement that additional written description be included in each provisional application filed following the initial patent application and to clarify that additional provisional applications may be filed so long as a nonprovisional is filed within the regulatory time frame, including any approved extensions.

9. Remove the proposed revision to § 401.14(f)(3).

10. Revise § 401.16 to add ''(h) Summary of utilization information provided by contractors,'' in accordance with the directive in Executive Order 14036 that the Secretary of Commerce, acting through the Director of NIST, consider such an addition to the regulations.

11. Add § 401.18 to include a severability clause in this Part.

12. Revise § 404.2 to clarify intent by stating that payments received under a license agreement may be considered as ''a means for encouraging the licensee to develop an invention in order to advance practical application and to promote commercialization by the licensee.

13. Revise § 404.1(b) to add ''and used in accordance with 15 U.S.C. 3710c(a)(1)(B),'' to reiterate that royalties collected must be used in accordance with this statute.

14. Re-insert § 404.4 in its entirety.

15. Revise § 404.7(a)(1) to re-insert the phrase ''and the prospective licensee'' to the information required in a Notice of a prospective license.

16. Revise § 404.7(a)(3) to move the word ''to'' before the word ''lessen'' to be consistent with 35 U.S.C. 209(a)(4).

17. Add § 404.15 to include a severability clause in this Part.

Executive Order 12866 and Regulatory Impact Analysis

This rulemaking is a significant regulatory action under section 3(f)(4) of Executive Order 12866. This rulemaking, however, is not an economically significant regulatory action under section 3(f)(1) of the Executive Order, as it does not have an effect on the economy of $100 million or more in any one year, and it does not have a material adverse effect on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule only makes administrative changes for ease, clarity, and transparency, and therefore does not have economically significant effects.

Executive Order 13132

This rule does not contain policies with Federalism implications as defined in Executive Order 13132.

Regulatory Flexibility Act

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

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule contains a collection of information approved by OMB under the following control number: 0693–0090—iEdison. NIST believes any overall increases/decreases in burdens and costs will be minimal and will fall within the already approved amounts for the existing collection. The public may access the current version of the collection, including all supporting materials, at *www.reginfo.gov/public/do/PRAMain.*

National Environmental Policy Act

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

List of Subjects in 37 CFR Parts 401 and 404

Inventions and patents, Laboratories, Research and development, Science and technology, Technology transfer.

For the reasons stated in the preamble, the National Institute of Standards and Technology amends 37 CFR parts 401 and 404 as follows:

PART 401—RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

■ 1. The authority citation for 37 CFR part 401 continues to read as follows:

Authority: 35 U.S.C. 206; DOO 30–2A.

■ 2. Revise § 401.1 to read as follows:

§ 401.1 Scope.

(a) Traditionally there have been no conditions imposed by the government on research performers while using private facilities which would preclude them from accepting research funding from other sources to expand, to aid in completing or to conduct separate investigations closely related to research activities sponsored by the government. Notwithstanding the right of research organizations to accept supplemental funding from other sources for the purpose of expediting or more comprehensively accomplishing the research objectives of the government sponsored project, it is clear that the ownership provisions of these regulations would remain applicable in any invention ''conceived or first actually reduced to practice in performance'' of the project. Separate accounting for the two funds used to support the project in this case is not a determining factor.

(1) To the extent that a non-government sponsor established a project which, although closely related, falls outside the planned and committed activities of a government-funded project and does not diminish or distract from the performance of such activities, inventions made in performance of the non-government sponsored project would not be subject to the conditions of these regulations. An example of such related but separate projects would be a government sponsored project having research objectives to expand scientific understanding in a field and a closely related industry sponsored project having as its objectives the application of such new knowledge to develop usable new technology. The time relationship in conducting the two projects and the use of new fundamental knowledge from one in the performance of the other are not important determinants since most inventions rest on a knowledge base built up by numerous independent research efforts extending over many years. Should such an invention be claimed by the performing organization to be the product of non-government sponsored research and be challenged by the sponsoring agency as being reportable to the government as a ''subject invention'', the challenge is appealable as described in § 401.11(d).

(2) An invention which is made outside of the research activities of a government-funded project is not viewed as a ''subject invention'' since it cannot be shown to have been ''conceived or first actually reduced to practice'' in performance of the project. An obvious example of this is a situation where an instrument purchased with government funds is later used, without interference with or cost to the government funded project, in making an invention all expenses of which involve only non-government funds.

(b) This part implements 35 U.S.C. 202 through 204 and is applicable to any funding agreement with a nonprofit organization or small business firm as defined by 35 U.S.C. 201, except for an agreement made primarily for educational purposes under 35 U.S.C. 212. This part also applies to any funding agreement with business firms regardless of size in accordance with section 1, paragraph (b)(4) of Executive Order 12591, as amended by Executive Order 12618, unless directed otherwise pursuant to NASA or DOE vesting statutes.

(c) This regulation supersedes OMB Circular A–124 and shall take precedence over any regulations or other guidance dealing with ownership of inventions made by businesses and nonprofit organizations which are inconsistent with it. Only deviations requested by a contractor and not inconsistent with Chapter 18 of Title 35, United States Code, may be made without approval of the Secretary. Modifications or tailoring of clauses as authorized by § 401.5 or 401.3, when alternate provisions are used under § 401.3(a)(1) through (6), are not considered deviations requiring the Secretary's approval.

(d) This part is not intended to apply to arrangements under which nonprofit organizations, small business firms, or others are allowed to use government-owned research facilities and normal technical assistance provided to users of those facilities, whether on a reimbursable or nonreimbursable basis. This part is also not intended to apply to arrangements under which sponsors reimburse the government or facility contractor for the contractor employee's time in performing work for the sponsor. Such arrangements are not considered ''funding agreements'' as defined at 35 U.S.C. 201(b) and § 401.2(a).

■ 3. Amend § 401.2 by revising the introductory text and paragraphs (k) through (o) to read as follows:

§ 401.2 Definitions.

In addition to the definitions in 35 U.S.C. 201, as used in this part—

* * * * *

(k) The term *electronically filed* means any submission of information transmitted by an electronic system.

(l) The term *electronic system* means a software-based system approved by the agency for the transmission of information.

(m) The term *patent application* or ''application for patent'' may be the following:

(1) A United States provisional application as defined in 37 CFR 1.9(a)(2) and filed under 35 U.S.C. 111(b); or

(2) A United States nonprovisional application as defined in 37 CFR 1.9(a)(3) and filed under 35 U.S.C. 111(a); or

(3) A patent application filed in a foreign country or an international patent office; or

(4) An application for a Plant Variety Protection certificate.

(n) The term *initial patent application* means, as to a given subject invention:

(1) The first United States provisional application as defined in 37 CFR 1.9(a)(2) and filed under 35 U.S.C. 111(b); or

(2) The first United States nonprovisional application as defined in 37 CFR 1.9(a)(3) and filed under 35 U.S.C. 111(a); or

(3) The first patent application filed under the Patent Cooperation Treaty as defined in 37 CFR 1.9(b); or

(4) The first application for a Plant Variety Protection certificate.

(o) The term *statutory period* means the one-year period before the effective

filing date of a claimed invention in a patent application during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112–29.

§ 401.3 [Amended]

■ 4. Amend § 401.3 as follows:
■ a. Remove the words ''§ 401.5(g)'' and add in their place ''§ 401.5(f)'' in paragraph (c)(3);
■ b. Remove the words ''of Commerce'' from the fourth sentence of paragraph (f); and
■ c. Remove paragraph (g) and redesignate paragraphs (h) and (i) as paragraphs (g) and (h).

§ 401.4 [Amended]

■ 5. Amend § 401.4 as follows:
■ a. Remove the words ''35 U.S.C. 202(b)(4)'' and add in their place ''35 U.S.C. 202(b)(3)'' in the first sentence of paragraph (a); and
■ b. Remove the words ''United States Claims Court'' and add in their place ''United States Court of Federal Claims'' in the last sentence of paragraph (b)(6).

■ 6. Amend § 401.5 as follows:
■ a. Revise paragraphs (a) and (b);
■ b. Remove paragraph (f) and redesignate paragraphs (g) and (h) as paragraphs (f) and (g);
■ c. Revise newly redesignated paragraph (g).

The revisions read as follows:

§ 401.5 Modification and tailoring of clauses.

(a) Agencies should complete the blank in paragraph (g)(2) of the clauses at § 401.14 in accordance with their own or applicable government-wide regulations such as the Federal Acquisition Regulation. If the funding agreement is a grant or cooperative agreement, paragraph (g)(3) of the clause may be deleted.

(b) Agencies should complete paragraph (l) of the clause in § 401.14, ''Communication,'' by designating a central point of contact for communications on matters relating to the clause. Agencies may also include additional information on communications in paragraph (l) of the clause in § 401.14.

* * * * *

(g) If the contract is for the operation of a government-owned facility, agencies may add paragraph (f)(5) to the clause at § 401.14 with the following text:

The contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed and shall submit a description of the procedures to the *contracting officer* so that the *contracting officer* may evaluate and determine their effectiveness.

■ 7. Revise § 401.6 to read as follows:

§ 401.6 Exercise of march-in rights.

(a) The following procedures shall govern the exercise of the march-in rights of the agencies set forth in 35 U.S.C. 203 and paragraph (j) of the clause at § 401.14:

(1) Whenever an agency receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding, it shall notify the contractor in writing (including electronic means) of the information and request an informal consultation and information relevant to the matter with the contractor to understand the nature of the issue and may also consider possible alternatives other than exercising march-in rights. In the absence of response from the contractor to the agency request for informal consultation within 30 days, the agency may, at its discretion, proceed with the procedures below. If informal consultation occurs within 30 days, or later if the agency has not initiated the procedures below, then the agency shall, within 120 days after informal consultation, either notify the contractor of the initiation of the procedures below with a summary of the efforts taken, or notify the contractor, in writing, that it will not pursue march-in rights on the basis of the available information.

(2) A march-in proceeding shall be initiated by the issuance of a written notice by the agency to the contractor and its assignee or exclusive licensee, as applicable and if known to the agency, stating that the agency is considering the exercise of march-in rights. The notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action would be based and shall specify the field or fields of use in which the agency is considering requiring licensing. The notice shall advise the contractor (assignee or exclusive licensee) of its rights, as set forth in this section and in any supplemental agency regulations. The determination to exercise march-in rights shall be made by the head of the agency or his or her designee.

(3) Within 30 days after the receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit in person, in writing, or through a representative, information or argument in opposition to the proposed march-in, including any additional specific information which raises a genuine dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the head of the agency or designee shall undertake or refer the matter to another official for fact-finding.

(4) Fact-finding shall be conducted in accordance with the procedures established by the agency. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures should afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the agency may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the agency. Any portion of the march-in proceeding, including a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the contractor, its assignee, or licensees shall be closed to the public, including potential licensees. In accordance with 35 U.S.C. 202(c)(5), agencies shall not disclose any such information obtained during a march-in proceeding to persons outside the government except when such release is authorized by the contractor (assignee or licensee) or otherwise required by law.

(5) The official conducting the fact-finding shall prepare or adopt written findings of fact and transmit them to the head of the agency or designee promptly after the conclusion of the fact-finding proceeding along with a recommended determination. A copy of the findings of fact shall be sent to the contractor (assignee or exclusive licensee) by registered or certified mail. The contractor (assignee or exclusive licensee) and agency representatives will be given 30 days to submit written arguments to the head of the agency or designee; and, upon request by the contractor oral arguments will be held before the agency head or designee that will make the final determination.

(6) In cases in which fact-finding has been conducted, the head of the agency or designee shall base his or her determination on the facts found, together with any other information and written or oral arguments submitted by the contractor (assignee or exclusive licensee) and agency representatives, and any other information in the administrative record. The consistency of the exercise of march-in rights with

the policy and objectives of 35 U.S.C. 200 shall also be considered. In cases referred for fact-finding, the head of the agency or designee may reject only those facts that have been found to be clearly erroneous, but must explicitly state the rejection and indicate the basis for the contrary finding. Written notice of the determination whether march-in rights will be exercised shall be made by the head of the agency or designee and sent to the contractor (assignee of exclusive licensee) by certified or registered mail within 90 days after the completion of fact-finding or 90 days after oral arguments, whichever is later, or the proceedings will be deemed to have been terminated and thereafter no march-in based on the facts and reasons upon which the proceeding was initiated may be exercised.

(7) An agency may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

(b) The procedures of this part shall also apply to the exercise of march-in rights against inventors receiving title to subject inventions under 35 U.S.C. 202(d) and, for that purpose, the term ''contractor'' as used in this section shall be deemed to include the inventor.

(c) An agency determination unfavorable to the contractor (assignee or exclusive licensee) shall be held in abeyance pending the exhaustion of appeals or petitions filed under 35 U.S.C. 203(b).

(d) For purposes of this section the term exclusive licensee includes a partially exclusive licensee.

(e) Agencies are authorized to issue supplemental procedures not inconsistent with this part for the conduct of march-in proceedings.

§ § 401.7 and 401.8 [Removed and Reserved]

■ 8. Remove and reserve §§ 401.7 and 401.8.

■ 9. Revise § 401.9 to read as follows:

§ 401.9 Contractor and contractor employee inventor requests for rights in inventions.

(a) Agencies shall allow a contractor to request greater rights in an invention, including a request to return title to an invention to the contractor, when the funding agreement contains alternate provisions in accordance with § 401.3(a)(2):

(1) The agency shall consider if the circumstances which originally led the agency to invoke an exception under § 401.3(a) are currently valid and applicable to the actual subject invention.

(i) The agency shall provide the contractor the opportunity to submit information on its plans and intentions to bring the subject invention to practical application pursuant to 35 U.S.C. 200.

(ii) The agency shall assess whether government ownership of the invention will better promote the policies and objectives of 35 U.S.C. 200 than the plans and intentions submitted by the contractor.

(iii) The agency shall consider whether to allow the standard clause at § 401.14 to apply with additional conditions imposed upon the contractor's use of the invention for specific uses or applications, or with expanded government license rights in such uses or applications.

(2) The agency shall reply to the contractor with its determination within 90 days after receiving a request and any supporting information from the contractor. If a bar to patenting is sooner than 90 days from receipt of a request, the agency may either file a patent application on the subject invention or authorize the contractor to file a patent application at its own risk and expense.

(3) The Department of Energy is authorized to process deferred determinations either in accordance with its waiver regulations or this section.

(b) Pursuant to 35 U.S.C. 202(d), a contractor is required to obtain approval from a funding Agency before assigning rights to a subject invention made under a funding agreement to an employee/inventor. When an employee/inventor retains rights to a subject invention made under a funding agreement, either the Agency or the contractor must ensure compliance by the employee/inventor with at least those conditions that would apply under paragraphs (b), (d), (f)(4), (h), (i), and (j) of the clause at § 401.14.

■ 10. Revise § 401.11 to read as follows:

§ 401.11 Appeals.

(a) The agency official initially authorized to take any of the following actions shall provide the contractor with a written statement of the basis for his or her action at the time the action is taken, including any relevant facts that were relied upon in taking the action.

(1) A refusal to grant an extension under paragraph (c)(5) of the standard clause at § 401.14.

(2) A request for a conveyance of title under paragraph (d)(1) of the standard clause at § 401.14.

(3) A refusal to grant a waiver under paragraph (i) of the standard clause at § 401.14.

(4) A refusal to approve an assignment under paragraph (k)(1) of the standard clause at § 401.14.

(b) Each agency shall establish and publish procedures under which any of the agency actions listed in paragraph (a) of this section may be appealed to the head of the agency or designee. Review at this level shall consider both the factual and legal basis for the actions and its consistency with the policy and objectives of 35 U.S.C. 200–206.

(c) Appeals procedures established under paragraph (b) of this section shall include administrative due process procedures and standards for fact-finding at least comparable to those set forth in § 401.6(a)(4) through (6) whenever there is a dispute as to the factual basis for an agency request for a conveyance of title under paragraph (d) of the standard clause at § 401.14, including any dispute as to whether or not an invention is a subject invention.

(d) To the extent that any of the actions described in paragraph (a) of this section are subject to appeal under the Contract Dispute Act, the procedures under the Act will satisfy the requirements of paragraphs (b) and (c) of this section.

■ 11. Revise § 401.13 to read as follows:

§ 401.13 Confidentiality of contractor submissions.

Pursuant to 35 U.S.C. 202(c)(5) and 205, the following procedures shall govern confidentiality of documents submitted under paragraph (c) of the standard clause found at § 401.14:

(a) Agencies shall not disclose to third parties pursuant to requests under the Freedom of Information Act (FOIA) any information disclosing a subject invention during the time which an initial patent application may be filed under paragraph (c) of the standard clause found at § 401.14 or such other clause in the funding agreement. This prohibition does not apply to information that has previously been published by the inventor, contractor, or otherwise.

(b) Agencies shall not disclose or release, pursuant to requests under the Freedom of Information Act or otherwise, copies of any document which is part of an application for patent with the U.S. Patent and Trademark Office or any foreign patent office filed by the contractor (or its assignees, licensees, or employees) on a subject invention to which the contractor has elected to retain title. This prohibition does not extend to disclosure to other government agencies or contractors of government agencies under an obligation to maintain such information in confidence. This

prohibition does not apply to documents published by the U.S. Patent and Trademark Office or any foreign patent office.

(c) When implementing policies that encourage public dissemination of the results of work supported by the agency through government publications or other publications of technical reports, agencies shall not include copies of documents submitted by contractors pursuant to § 401.14(c) when a contractor notifies the agency that a particular report or other submission contains a disclosure of a subject invention to which it has elected title or may elect title, or such publication could create a statutory bar to obtaining patent protection.

■ 12. In § 401.14, amend the clause by:
■ a. Revising paragraphs (a)(7) and (8); and (c)(1) and (3);
■ b. Adding paragraph (c)(6);
■ c. Revising paragraph (d);
■ d. Removing the word ''sucessor'' and adding in its place ''successor'' in the final sentence of paragraph (e)(1);
■ e. Removing the word ''incidential'' and adding in its place ''incidental'' in paragraph (k)(3);
■ f. Revise paragraph (k)(4);
■ g. Add paragraphs (k)(5) and (6);
■ h. Add paragraph (m).

The revisions read as follows:

§ 401.14 Standard patent rights clauses.

* * * * *

(a) * * *

(7) *Statutory period* means the one-year period before the effective filing date of a claimed invention in a patent application during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112–29.

(8) *Contractor* means any person, small business firm, or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

* * * * *

(c) * * *

(1) The *contractor* will disclose each subject invention to the *Federal agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency,* the *contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor.* If required by the *Federal agency,* the *contractor* will provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report, and will provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

* * * * *

(3)(i) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use.

(ii) If the *contractor* files a provisional application as its initial patent application, it shall file a nonprovisional application within 10 months of the filing of the provisional application. So long as there is a pending patent application for the subject invention and the statutory period wherein valid patent protection can be obtained in the United States has not expired, additional provisional applications may be filed within the initial 10 months or any extension period granted under paragraph (c)(5) of this clause. If an extension(s) is granted under paragraph (c)(5) of this clause, the *contractor* shall file a nonprovisional patent application prior to the expiration of the extension(s) or notify the agency of any decision not to file a nonprovisional application prior to the expiration of the extension(s), or if earlier, 60 days prior to the end of any statutory period wherein valid patent protection can be obtained in the United States.

(iii) The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(iv) If required by the *Federal agency,* the *contractor* will provide the filing date, patent application number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the *contractor* has applied for a patent.

* * * * *

(6) In the event a subject invention is made under funding agreements of more than one agency, at the request of the *contractor* or on their own initiative the agencies shall designate one agency as responsible for administration of the rights of the government in the invention.

(d) Conditions When the Government May Obtain Title

(1) A *Federal agency* may require the *contractor* to convey title to the *Federal agency* of any subject invention—

(i) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(ii) In those countries in which the *contractor* fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the *Federal agency,* the *contractor* shall continue to retain title in that country.

(iii) In any country in which the *contractor* decides not to continue the prosecution of any nonprovisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(2) A *Federal agency,* at its discretion, may waive the requirement for the *contractor* to convey title to any subject invention.

* * * * *

(k) * * *

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that, when appropriate, it will give a preference to a small business firm when licensing a subject invention;

(5) The *Federal agency* may review the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the *Federal agency* when the *Federal*

agency's review discloses that the *contractor* could take reasonable steps to more effectively implement the requirements of paragraph (k)(4) of this clause; and

(6) The *Federal agency* may take into consideration concerns presented by small businesses in making such determinations in paragraph (k)(5) of this clause.

* * * * *

(m) Electronic Filing

(1) Unless otherwise requested or directed by the *Federal agency*—

(i) The written disclosure required in (c)(1) of this clause shall be electronically filed;

(ii) The written election required in (c)(2) of this clause shall be electronically filed; and

(iii) If required by the agency to be submitted, the close-out report in paragraph (c)(1) of this clause and the patent information and periodic reporting identified in paragraph (c)(3) of this clause shall be electronically filed.

(2) Other written notices required in this clause may be electronically delivered to the agency or the *contractor* through an electronic database used for reporting subject inventions, patents, and utilization reports to the funding agency.

§ 401.15 [Removed and Reserved]

■ 13. Remove and reserve § 401.15.

■ 14. Revise § 401.16 to read as follows:

§ 401.16 Federal agency reporting requirements.

Federal agencies will report annually to the Secretary on data pertaining to reported subject inventions under a funding agreement, including—

(a) Number of subject inventions reported to the Federal agency;

(b) Patent applications filed on subject inventions;

(c) Issued patents on subject inventions;

(d) Number of requests and number of requests granted for extension of the time for disclosures, election, and filing per 37 CFR 401.14(c)(5);

(e) Number of subject inventions conveyed to the Government in accordance with 37 CFR 401.14(d);

(f) Number of waivers requested and waivers granted per 37 CFR 401.14(i);

(g) Number of requests for assignment of invention rights; and

(h) Summary of utilization information provided by contractors.

Such information will be received by the Secretary no later than the last day of October of each year.

§ 401.17 [Amended]

■ 15. Amend § 401.17 by removing the phrase '', telephone (301) 435–1986''.

■ 16. Add § 401.18 to read as follows:

§ 401.18 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in effect.

PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

■ 17. The authority citation for 37 CFR part 404 continues to read as follows:

Authority: 35 U.S.C. 207–209, DOO 30–2A.

■ 18. Revise § 404.1 to read as follows:

§ 404.1 Scope of part.

(a) This part prescribes the terms, conditions, and procedures upon which a federally owned invention, other than an invention in the custody of the Tennessee Valley Authority, may be licensed. This part does not affect licenses which:

(1) Were in effect prior to April 7, 2006;

(2) May exist at the time of the Government's acquisition of title to the invention, including those resulting from the allocation of rights to inventions made under Government research and development contracts;

(3) Are the result of an authorized exchange of rights in the settlement of patent disputes, including interferences; or

(4) Are otherwise authorized by law or treaty, including 35 U.S.C. 202(e), 35 U.S.C. 207(a)(3) and 15 U.S.C. 3710a, which also may authorize the assignment of inventions. Although licenses on inventions made under a cooperative research and development agreement (CRADA) are not subject to this regulation, agencies are encouraged to apply the same policies and use similar terms when appropriate. Similarly, this should be done for licenses granted under inventions where the agency has acquired rights pursuant to 35 U.S.C. 207(a)(3).

(b) Royalties collected pursuant to this part, and used in accordance with 15 U.S.C. 3710c(a)(1)(B), are not intended as an alternative to appropriated funding or as an alternative funding mechanism.

■ 19. Revise § 404.2 to read as follows:

§ 404.2 Policy and objective.

It is the policy and objective of this subpart to promote the results of federally funded research and development through the patenting and licensing process. In negotiating licenses, the Government may consider payments under a licensing agreement as a means for encouraging the licensee to develop an invention in order to advance practical application and promote commercialization by the licensee.

§ 404.5 [Amended]

■ 20. Amend § 404.5 by removing the words ''§ 404.5(a)(2)'' from paragraph (b)(8)(iv) and adding in their place ''35 U.S.C. 209(b).''

■ 21. Revise § 404.7 to read as follows:

§ 404.7 Exclusive, co-exclusive, and partially exclusive licenses.

(a) Exclusive, co-exclusive or partially exclusive licenses may be granted on Government owned inventions, only if:

(1) Notice of a prospective license identifying the invention and the prospective licensee has been published and responses, if any, reviewed in accordance with 35 U.S.C. 209(e). The agency, in its discretion, may include other information as appropriate;

(2) After expiration of the public notice period and consideration of any written objections received in accordance with 35 U.S.C. 209(e), the Federal agency has determined that:

(i) The public will be served by the granting of the license, as indicated by the applicant's intentions, plans and ability to bring the invention to the point of practical application or otherwise promote the invention's utilization by the public;

(ii) The proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical application, as proposed by the applicant, or otherwise to promote the invention's utilization by the public; and

(iii) Exclusive, co-exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment capital and expenditures needed to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(3) The Federal agency has determined that the grant of such a license will not tend to substantially lessen competition or create or maintain a violation of the Federal antitrust laws;

(4) The Federal agency has given first preference to any small business firms submitting plans that are determined by the agency to be within the capability of the firms and as having equal or greater likelihood as those from other applicants to bring the invention to practical application within a reasonable time; and

(5) In the case of an invention covered by a foreign patent application or patent, the interests of the Federal Government or United States industry in foreign commerce will be enhanced.

(b) In addition to the provisions of § 404.5, the following terms and conditions apply to exclusive, co-exclusive and partially exclusive licenses:

(1) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice or have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(2) The license shall reserve to the Federal agency the right to require the licensee to grant sublicenses to responsible applicants, on reasonable terms, when necessary to fulfill health or safety needs.

(3) The license shall be subject to any licenses in force at the time of the grant of the exclusive, co-exclusive or partially exclusive license.

(4) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) Federal agencies shall maintain a record of determinations to grant exclusive, co-exclusive or partially exclusive licenses.

§ 404.10 [Amended]

■ 22. Amend § 404.10 by removing the words ''and any sublicensee of record''.

■ 23. Amend § 404.11 by revising paragraph (a) introductory text and paragraphs (a)(3) and (b) to read as follows:

§ 404.11 Appeals.

(a) The following parties may appeal to the agency head or designee of the Federal agency any decision or determination concerning the grant, denial, modification, or termination of a license:

* * * * *

(3) A person who timely filed a written objection in response to the notice required by § 404.7 and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action due to being denied the opportunity to promote the commercialization of the invention.

(b) The Federal agency shall establish appropriate procedures for considering appeals under paragraph (a) of this section.

■ 24. Revise § 404.14 to read as follows:

§ 404.14 Confidentiality of information.

35 U.S.C. 209(f) requires that any plan submitted pursuant to § 404.8(a)(8) and any report required by 35 U.S.C. 209(d)(2) shall be treated as commercial or financial information obtained from a person and privileged and confidential and not subject to disclosure under 5 U.S.C. 552.

■ 25. Add § 404.15 to read as follows:

§ 404.15 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in effect.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023–06033 Filed 3–21–23; 4:15 pm]

BILLING CODE 3510–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP57

Program for the Repayment of Educational Loans, Urgent Care, and Specialty Education Loan Repayment Program; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment; correction.

SUMMARY: This document corrects the final rule published on March 2, 2023, revising the Department of Veterans Affairs (VA) regulation that governs the Program for the Repayment of Educational Loans (PREL) by correcting the section number provided in the **DATES** section.

DATES: This correction is effective March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Ethan Kalett, Office of Regulations, Appeals, and Policy, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7633. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Revisions to § 17.643 of Title 38, Code of Federal Regulations (CFR)

In a final rule published in the **Federal Register** (FR) on March 2, 2023, at 88 FR 13033, VA added the OMB collection number to § 17.643 for the PREL, which is a program in which VA repays educational loans to individuals who pursued a program of study leading to a degree in psychiatric medicine and who are seeking employment in VA. The Paperwork Reduction Act of 1995 (44 U.S.C. 3507). requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi). We had indicated in the **DATES** section of the final rule that the effective date for the OMB collection number was for § 17.644. However, the correct section for the OMB collection is § 17.643, not § 17.644. This document corrects the **DATES** section of that rule to reference the correct document and reflect the full history of the regulation.

Correction

In the **Federal Register** of March 2, 2023 in FR Doc. 2023–04144, on page 13033 in the third column, correct the DATES caption to read:

DATES: Section 17.643 of title 38, published at 81 FR 66815 on September 29, 2016, and corrected at 82 FR 4795 on January 17, 2017, is effective March 2, 2023. This final rule is effective March 2, 2023.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2023–06048 Filed 3–23–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 122 and 185

[Docket No. USCG–2021–0306]

RIN 1625–AC69

Fire Safety of Small Passenger Vessels; OMB Approval of Information Collection Request

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; information collection approval.

SUMMARY: The Coast Guard announces that it has received approval from the Office of Management and Budget (OMB) for an information collection request associated with the interim rule requirements for fire safety on certain covered small passenger vessels. This

rule announces the effective dates for the requirements for vessel operators to log the occurrence of passenger emergency egress drills and to post passenger safety bills in overnight accommodation spaces. In the interim rule, we stated we would publish a document in the **Federal Register** announcing the effective date of the collection-of-information related sections upon OMB approval. This rule establishes April 24, 2023 as the effective date for those sections.

DATES: This rule is effective April 24, 2023. The amendments to 46 CFR 122.507, 122.515, 185.507, and 185.515, published on December 27, 2021 (86 FR 73160) are effective on April 24, 2023.

ADDRESSES: To view documents mentioned as being available in the docket, including the interim rule published on December 27, 2021 (86 FR 73160), search the docket number USCG–2021–0306 using the Federal eRulemaking Portal at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Lieutenant Carmine Faul, Coast Guard; telephone 202–475–1357, email *carmine.a.faul@uscg.mil.*

SUPPLEMENTARY INFORMATION: On December 27, 2021, the Coast Guard published an interim rule titled ''Fire Safety on Small Passenger Vessels'' that added several requirements for certain covered small passenger vessels. The requirements in the interim rule are based on 46 U.S.C. 3306(n), which was codified by section 8441 of the Elijah E. Cummings Coast Guard Authorization Act of 2020 (Pub. L. 116–283, Jan. 1, 2021). The statute directs the Secretary of the Department of Homeland Security (DHS) to prescribe fire safety regulations for small passenger vessels with overnight accommodations for passengers or operating on Oceans or Coastwise routes, excluding fishing vessels and ferries.

The interim rule contained four provisions that were delayed indefinitely, pending information collection approval from OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. On February 24, 2023, OMB, Office of Information and Regulatory Affairs, approved the additional information collection requirements in 46 CFR 122.507(b), 122.515(b), 185.507(b), and 185.515(a) within the existing OMB Control Number 1625–0057. Accordingly, we announce that §§ 122.507(b), 122.515(b), 185.507(b), and 185.515(a) are effective April 24, 2023.

Sections 122.507(b) and 185.507(b) relate to logging the occurrence of the mandatory passenger egress drills. Under these paragraphs, passenger egress drills must be logged or otherwise documented, including the date and time of the drill and the number of drill participants. The log will be used by the Coast Guard to confirm that the vessel operators are conducting the passenger egress drills.

Sections 122.515(b) and 185.515(a) contain the requirements for the vessel operator or owner to post the passenger safety bill in each passenger cabin and stateroom, and in passenger accommodation spaces.

These requirements for recording passenger egress drills and posting a passenger safety bill are based on the authority in 46 U.S.C. 3306(n)(3)(A)(vii) and (viii).

As we stated in the interim rule, the passenger emergency egress drills log requirement and the posting of the passenger safety bill apply to vessels regulated under 46 CFR subchapter T and K that have overnight accommodations for passengers.

List of Subjects in 46 CFR Parts 122 and 185

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 122 and 185 as follows:

Title 46—Shipping

PART 122—OPERATIONS

■ 1. The authority citation for part 122 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

■ 2. Amend § 122.507 by adding paragraph (b) to read as follows:

§ 122.507 Passenger egress drills.

* * * * *

(b) Passenger egress drills must be logged or otherwise documented for review by the Coast Guard upon request. The drill entry must include the following information:

(1) Date and time of the drill; and

(2) Number of drill participants.

■ 3. Amend § 122.515 as follows:

■ a. Redesignate paragraph (b) as paragraph (c); and

■ b. Add new paragraph (b).

The addition reads as follows:

§ 122.515 Passenger safety bill.

* * * * *

(b) For vessels described by 46 CFR 114.110(f), the master must post a passenger safety bill in each passenger cabin or stateroom and in passenger accommodation spaces.

* * * * *

PART 185—OPERATIONS

■ 4. The authority citation for part 185 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

■ 5. Amend § 185.507 by adding paragraph (b) to read as follows:

§ 185.507 Passenger egress drills.

* * * * *

(b) Passenger egress drills must be logged or otherwise documented for review by the Coast Guard upon request. The drill entry must include the following information:

(1) Date and time of the drill; and

(2) Number of drill participants.

■ 6. Amend § 185.515 by adding paragraph (a) to read as follows:

§ 185.515 Passenger safety bill.

(a) On vessels described by 46 CFR 175.110(d) of this chapter, a passenger safety bill must be posted by the master in each cabin or stateroom, and in passenger accommodation spaces.

* * * * *

Dated: March 17, 2023

W.R. Arguin,

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

[FR Doc. 2023–05947 Filed 3–23–23; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23–14; RM–11943; DA 23–221; FR ID 132667]

Television Broadcasting Services Roanoke, Virginia

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On January 11, 2023, the Media Bureau, Video Division (Bureau)

issued a *Notice of Proposed Rulemaking* (*NPRM*) in response to a petition for rulemaking filed by Blue Ridge Public Television, Inc. (Petitioner or Blue Ridge PBS), the licensee of noncommercial educational television PBS member station WBRA–TV (WBRA–TV or Station), channel *3, Roanoke, Virginia, requesting the substitution of channel *13 in place of channel *3 at Roanoke in the Table of TV Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel *13 for channel *3 at Roanoke.

DATES: Effective March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647, *Joyce.Bernstein@fcc.gov;* or Emily Harrison, Media Bureau, at (202) 418–1665, *Emily.Harrison@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 88 FR 3680 on January 20, 2023. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *13. No other comments were filed.

The Bureau believes the public interest would be served by substituting channel *13 for channel *3 at Roanoke, Virginia. The proposed channel substitution will improve viewers' access to the Station's PBS and other public television programming by improving reception and resolving low-VHF reception issues. The Petitioner further states that the Commission has recognized that although VHF reception issues are not universal, ''environmental noise blockages affecting [VHF] signal strength and reception exist'' and ''[vary] widely from service area to service area.'' According to the Petitioner, the Station's move from channel *3 to channel *13 is predicted to create an area where 64,309 persons are predicted to lose service without considering the service from other PBS stations. When taking into account the service provided by noncommercial educational stations WUNC–TV and WUNL–TV to the WBRA–TV noise limited service contour area, only 94 persons are predicted to lose access to PBS network programming, which is *de minimis.*

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 23–14; RM–11943; DA 23–221, adopted March 15, 2023, and released March 15, 2023. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

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

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

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

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

PART 73—RADIO BROADCAST SERVICE

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

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

■ 2. In § 73.622(j), amend the Table of TV Allotments, under Virginia, by revising the entry for Roanoke to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
VIRGINIA	
* * * * *	
Roanoke	*13, 27, 30, 34, 36.
* * * * *	

[FR Doc. 2023–06095 Filed 3–23–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 221107–0236; RTID 0648–XC864]

Atlantic Highly Migratory Species; Commercial Shark Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 40 metric tons (mt) dressed weight (dw) (88,184 pounds (lb) dw) of aggregated large coastal shark (LCS) quota from the eastern Gulf of Mexico sub-region to the western Gulf of Mexico sub-region for the remainder of the 2023 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason quota transfers and affects commercial Atlantic shark permitted vessels and dealers.

DATES: Effective March 21, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Ann Williamson (*ann.williamson@noaa.gov*), Guy DuBeck (*guy.dubeck@noaa.gov*), or Karyl Brewster-Geisz (*karyl.brewster-geisz@noaa.gov*) at 301–427–8503.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Section 635.27(b) describes the baseline quotas for different shark management groups and regions, describes the process for annual adjustments to those baseline quotas, and includes the criteria to consider for inseason quota transfers between regions and sub-regions. Section 635.28(b) describes quotas that are linked for management purposes.

On November 14, 2022 (87 FR 68104), NMFS announced the 2023 commercial western Gulf of Mexico aggregated LCS (72.0 mt dw; 158,724 lb dw) and eastern Gulf of Mexico aggregated LCS (85.5 mt dw; 188,593 lb dw) sub-regional quotas. Based on dealer reports received as of March 16, 2023, NMFS estimates that in the western Gulf of Mexico sub-region, approximately 72.0 mt dw

(approximately 158,700 lb dw) or approximately 100 percent of the aggregated LCS sub-regional quota has been landed. In the eastern Gulf of Mexico sub-region, there has been no reported landings of aggregated LCS.

Regulations provide that quotas for certain shark species and/or management groups are linked, including western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS (see § 635.28(b)(4)). Regulations further provide that for each pair of linked species and/or management groups, if landings reach, or are projected to reach, a threshold of 80 percent of the available quota and are also projected to reach 100 percent of the available quota before the end of the 2023 fishing year, NMFS will close the relevant shark management groups (see § 635.28(b)(3)). At this time, without further action, NMFS projects that the western Gulf of Mexico aggregated LCS management group quota has already been exceeded. Without a quota transfer, NMFS would need to close the western Gulf of Mexico aggregated LCS group and the linked western Gulf of Mexico hammerhead group.

Under § 635.27(b)(2), NMFS may transfer quota inseason between regions or sub-regions. Such transfers may occur for species or management groups that are the same in both regions or sub-regions and the quota is split for management purposes and not as a result of a stock assessment. As described at § 635.27(b)(1)(ii), the sub-regional splits for the quotas in the Gulf of Mexico region were done for management purposes. Therefore, NMFS may transfer aggregated LCS quota between Gulf of Mexico sub-regions. Before making any such transfer, NMFS must consider the following determination criteria in § 635.27(b)(2)(iii), and other relevant factors: (1) The usefulness of information obtained from catches in the particular management group for biological sampling and monitoring of the status of the respective shark species and/or management group; (2) the catches of the particular species and/or management group quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; (3) the projected ability of the vessels fishing under the particular species and/or management group quota to harvest the additional amount of corresponding quota before the end of the fishing year; (4) effects of the adjustment on the status of all shark species; (5) effects of the adjustment on accomplishing the objectives of the fishery management plan; (6) variations in seasonal distribution, abundance, or migration patterns of the appropriate shark species and/or management group; (7) effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the quota; and/or (8) review of dealer reports, daily landing trends, and the availability of the respective shark species and/or management group on the fishing grounds.

NMFS has determined that, for the Gulf of Mexico aggregated LCS sub-regional landings, the eastern Gulf of Mexico aggregated LCS sub-regional landings are not projected to reach their quota by the end of the year and that the western Gulf of Mexico aggregated LCS sub-regional quota has exceeded 80 percent (approximately 100 percent) of their quota and may have already exceeded the quota. Therefore, NMFS has considered the inseason quota transfer criteria, documented in the Quota Transfer section below, and determined that a transfer from the sub-regional eastern Gulf of Mexico aggregated LCS quota to the western Gulf of Mexico aggregated LCS quota is warranted to avoid potential closure of the western Gulf of Mexico aggregated LCS quota and the western Gulf of Mexico hammerhead shark quota, which are linked under § 635.28(b)(4)(iii), while fishing opportunities still exist.

Quota Transfer

After fully considering all the criteria listed above, NMFS is taking action to transfer aggregated LCS quota from the eastern Gulf of Mexico sub-regional quota to the western Gulf of Mexico sub-regional quota. NMFS' consideration of the relevant criteria found at § 635.27(b)(2)(iii) includes, but is not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(b)(2)(iii)(A)), biological samples collected by NMFS scientific observers on commercial vessels targeting aggregated LCS and hammerhead sharks continue to provide NMFS with valuable data for ongoing scientific studies of shark age and growth, migration, and reproductive status. This is especially important for the upcoming bull, spinner, and tiger shark assessments that are expected to begin in 2024.

Regarding the catches of the quotas to date and the likelihood of a fishery closure if no adjustment is made, commercial shark dealer data show that landings of the western Gulf of Mexico aggregated LCS have exceeded 80 percent of the quota (approximately 100 percent). Once the landings exceed the threshold of 80 percent of the quotas and are also projected to reach 100 percent before the end of the 2023 fishing year, the western Gulf of Mexico aggregated LCS and hammerhead shark management groups would need to close absent a transfer of additional quota.

NMFS also analyzed landings data, catch trends, and potential migration of the species involved (§ 635.27(b)(2)(iii)(C)–(D) and (F)–(H)) and determined that under current fishing rates, 40 mt dw (88,184 lb dw) of eastern Gulf of Mexico sub-regional aggregated LCS is a reasonable amount of quota to transfer, allowing fishermen the opportunity to fully utilize the available shark quotas while avoiding negative economic impacts that would occur by closing the shark management groups. This action will not have impacts beyond those already analyzed in the 2006 Consolidated HMS FMP and its amendments and thus is not expected to negatively impact the stock.

Regarding the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(b)(2)(iii)(E)), this action is consistent with the quotas previously implemented and analyzed in the 2023 shark quota final rule (87 FR 68104, November 14, 2022) and in Amendment 5a (78 FR 40317, July 3, 2013) and Amendment 6 to the 2006 Consolidated HMS FMP (80 FR 50073, August 18, 2015). Specifically, this action is consistent with the objective of providing opportunities to fully harvest shark quotas without exceeding them.

Based on the considerations above, NMFS is transferring 40 mt dw (88,184 lb dw) of eastern Gulf of Mexico aggregated LCS sub-regional quota to the western Gulf of Mexico aggregated LCS sub-regional quota as of March 21, 2023. This quota transfer results in adjusted quotas of 45.5 mt dw (100,409 lb dw) for aggregated LCS in the eastern Gulf of Mexico sub-region and 112 mt dw (246,908 lb dw) for aggregated LCS management group in the western Gulf of Mexico sub-region. If landings and fishing rates do not increase substantially, transferring Gulf of Mexico aggregated LCS sub-regional quotas could allow the fisheries in each sub-region and region to remain open through the end of the 2023 fishing year.

Therefore, NMFS adjusts the eastern and western Gulf of Mexico aggregated LCS management group sub-regional quotas for the remainder of the 2023 shark fishing year, unless NMFS announces another quota transfer in the **Federal Register** or closes the fishery.

NMFS may also announce future retention limit adjustments as needed throughout the remainder of the 2023 shark fishing year.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N lat., proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and eastern Gulf of Mexico sub-regions is drawn along 88°00′ W long. (§ 635.27(b)(1)(ii)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason adjustments to respond to the unpredictable nature of shark species availability on the fishing grounds, the migratory nature of these species, and the regional variations in the shark fisheries. Providing prior notice and an opportunity for public comment on this quota transfer is impracticable. NMFS could not have proposed this action earlier, as it needed to consider and respond to updated landings data, including the recently available March 2023 data, in deciding whether to transfer a portion of the eastern Gulf of Mexico sub-regional aggregated LCS quota to the western Gulf of Mexico sub-regional aggregated LCS quota. Delaying this action is contrary to the public interest, not only because it would likely result in a western Gulf of Mexico sub-regional aggregated LCS closure and associates costs to the fishery, but also administrative costs due to further agency action needed to re-open the fishery after quota is transferred. The delay would preclude the fishery from harvesting LCS in the western Gulf of Mexico sub-region that are available on the fishing grounds that might otherwise become unavailable during a delay. This action does not raise conservation or management concerns. Transferring quota from the eastern Gulf of Mexico sub-region to the western Gulf of Mexico sub-region would have a minimal risk of exceeding the aggregated LCS quotas in the Gulf of Mexico region. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the commercial shark quotas and the inseason adjustment criteria.

For all of the above reasons, the AA finds that pursuant to 5 U.S.C. 553(d), there is also good cause to waive the 30-day delay in effective date.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: March 21, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–06137 Filed 3–21–23; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230306–0065; RTID 0648–XC669]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Pot Catcher/Processors in the Bering Sea and Aleutian Islands Management Area

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 catcher/processors using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season apportionment of the 2023 Pacific cod total allowable catch (TAC) allocated to catcher/processors using pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 22, 2023, through 1200 hours, A.l.t., September 1, 2023.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 apportionment of the 2023 Pacific cod TAC allocated to catcher/processors using pot gear in the BSAI is 922 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season apportionment of the 2023 Pacific cod TAC allocated as a directed fishing allowance to catcher/processors using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher/processors in the BSAI.

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 catcher/processors using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 20, 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 20, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–06156 Filed 3–21–23; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 57
Friday, March 24, 2023

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

DEPARTMENT OF ENERGY

10 CFR Part 460

[EERE–2009–BT–BC–0021]

RIN 1904–AC11

Energy Conservation Program: Energy Conservation Standards for Manufactured Housing; Extension of Compliance Date

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) is publishing a notice of proposed rulemaking (NOPR) to amend the compliance date for its manufactured housing energy conservation standards. Currently, manufacturers must comply with these standards on and after May 31, 2023. DOE is proposing to delay this compliance date to allow DOE more time to establish enforcement procedures that provides clarity for manufacturers and other stakeholders.

DATES: DOE will accept comments, data, and information regarding the NOPR received no later than April 24, 2023. See section IV, ''Public Participation,'' for details.

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

The docket web page can be found at *www.regulations.gov/docket?D=EERE-2009-BT-BC-0021.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel (GC–33), 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (202) 586–2555; Email: *matthew.ring@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Need To Amend Compliance Date
III. Discussion of Proposal
IV. Public Participation
V. Approval of the Office of the Secretary

I. Background

The Energy Independence and Security Act of 2007 (''EISA,'' Pub. L. 110–140) directs the U.S. Department of Energy (''DOE'' or, in context, ''the Department'') to establish energy conservation standards for manufactured housing (''MH'').[1] (42 U.S.C. 17071) Manufactured homes are constructed according to a code administered by the U.S. Department of Housing and Urban Development (''HUD Code''). 24 CFR part 3280. *See also generally* 42 U.S.C. 5401–5426. Structures, such as site-built and modular homes, that are constructed to the state, local or regional building codes are excluded from the coverage of the HUD Code.[2]

EISA directs DOE to base its standards on the most recent version of the International Energy Conservation Code (''IECC'') and any supplements to that document, except in cases where DOE finds that the IECC is not cost-effective or where a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. (*See* 42 U.S.C. 17071(b)(1))

On June 17, 2016, DOE published in the **Federal Register** a notice of proposed rulemaking (''NOPR''), including proposals recommended by the negotiated rulemaking working group for manufactured housing. 81 FR 39756 (''June 2016 NOPR''). DOE received nearly 50 comments on the proposed rule during the comment period. In addition, DOE also received over 700 substantively similar form letters from individuals.

On August 3, 2018, DOE published a Notice of Data Availability (''NODA''), stating it was examining possible alternatives to those proposed in the June 2016 NOPR and seeking further input from the public, including on first-time costs related to the purchase of these homes. 83 FR 38073 (''August 2018 NODA''). Prior to the NODA, in December of 2017, the Sierra Club filed a suit against DOE in the U.S. District Court for the District of Columbia, alleging that DOE had failed to meet its statutory deadline for establishing energy efficiency standards for manufactured housing. *Sierra Club* v. *Granholm,* No. 1:17–cv–02700–EGS (D.D.C. filed Dec. 18, 2017). In November 2019, the court in the Sierra Club litigation entered a consent decree in which DOE agreed to complete the rulemaking by stipulated dates.

After evaluating the comments received in response to the June 2016 NOPR and the August 2018 NODA, DOE published a supplemental NOPR (''SNOPR'') on August 26, 2021, in which DOE proposed energy conservation standards for manufactured homes based on the 2021 IECC. 86 FR 47744 (''August 2021 SNOPR''). DOE's primary proposal in the August 2021 SNOPR was a ''tiered'' approach based on the 2021 IECC. The ''tiered'' approach identifies a subset of less stringent energy conservation standards for certain manufactured homes (based on retail list price) in light of the cost-effectiveness considerations required by statute. DOE's alternate proposal was an ''untiered'' approach, wherein energy conservation standards for all manufactured homes would be

[1] The National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, defines ''manufactured home'' as ''a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary [pursuant to 24 CFR 3282.13] and complies with the standards established under this title [24 CFR part 3280]; and except that such term shall not include any self-propelled recreational vehicle.'' 42 U.S.C. 5402(6).

[2] *See* 42 U.S.C. 5403(f). *See* also 24 CFR 3282.12.

based on certain thermal envelope components and specifications of the 2021 IECC. Both proposals replaced the June 2016 NOPR proposal. *Id.* DOE sought comment on these proposals, as well as alternate thresholds, including a size-based threshold (*e.g.,* square footage, number of sections) and a region-based threshold, and alternative exterior wall insulation requirements (R–21) for certain HUD zones. *Id.*

On October 26, 2021, DOE published a NODA regarding updated inputs and results of the analyses presented in the August 2021 SNOPR (both ''tiered'' and ''untiered'' approaches), including a sensitivity analysis regarding an alternative sized-based tier threshold and an alternate exterior wall insulation requirement (R–21) for certain HUD zones. 86 FR 59042 (''October 2021 NODA''). In addition, DOE reopened the public comment period on the August 2021 SNOPR through November 26, 2021. DOE sought comments on the updated inputs and corresponding analyses, encouraged stakeholders to provide additional data to inform the analyses, and stated it might further revise the rulemaking analysis based on new or updated information. *Id.*

On May 31, 2022, DOE published a final rule codifying the current energy conservation standards for manufactured housing in a new part of the Code of Federal Regulations (''CFR'') under 10 CFR part 460, subparts A, B, and C (''May 2022 Final Rule''). 87 FR 32728. Subpart A of 10 CFR part 460 presents generally the scope of the rule and provides definitions of key terms. Subpart B established new requirements for manufactured homes that relate to climate zones, the building thermal envelope, air sealing, and installation of insulation, based on certain provisions of the 2021 IECC. Subpart C established new requirements based on the 2021 IECC related to duct sealing; heating, ventilation, and air conditioning (''HVAC''); service hot water systems; mechanical ventilation fan efficacy; and heating and cooling equipment sizing.

Under the energy conservation standards, the stringency of the requirements under subpart B are based on a tiered approach depending on the number of sections of the manufactured home. Accordingly, two sets of standards were established in subpart B (*i.e.,* Tier 1 and Tier 2). Both Tier 1 and Tier 2 incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC that DOE determined applicable and appropriate for manufactured homes. Tier 1 applies these building thermal envelope provisions to single-section manufactured homes, but only includes components at stringencies that would increase the incremental purchase price by less than $750 in order to address affordability concerns that were raised by HUD and other stakeholders during the consultation and rulemaking process. Tier 2 applies these same building thermal envelope provisions to multi-section manufactured homes but at higher stringencies specified for site-built homes in the 2021 IECC, with an alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3 based on consideration of the design and factory construction techniques of manufactured homes, as presented in the August 2021 SNOPR and October 2021 NODA. Manufacturers can comply with the building thermal envelope requirements through a prescriptive pathway (*e.g.,* using materials with specified ratings) or a performance pathway based on overall thermal transmittance (*Uo*) performance. *See* 10 CFR 460.102(c). Further, the energy conservation standards for both tiers also include duct and air sealing, insulation installation, HVAC and service hot water system specifications, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions, based on the 2021 IECC. DOE concluded that this approach is cost-effective based on the expected total life-cycle cost (''LCC'') savings for the lifetime of the home associated with implementation of the energy conservation standards. *See e.g.,* 87 FR 32742.

Relevant to this NOPR, in the May 2022 Final Rule, DOE adopted a compliance date such that the standards would apply to manufactured homes manufactured on or after one year after the publication date of the final rule in the **Federal Register**, which is May 31, 2023. In doing so, DOE noted its belief that many manufacturers already have experience complying with efficiency requirements similar to what DOE required in the May 2022 Final Rule based on manufacturers' previous experience with HUD *Uo* requirements and ENERGY STAR Version 2 efficiency requirements for homes produced on or after June 1, 2020. 87 FR 32759. DOE did not address enforcement of the standards in the May 2022 Final Rule. Even so, manufacturers are able to comply with the standards as they are. In fact, DOE noted that many of the requirements in the standards would require minimal compliance efforts (*e.g.,* documenting the use of materials subject to separate Federal or industry standards, such as the R-value of insulation or U-factor values for fenestration). 87 FR 32758, 32790. Nevertheless, DOE noted in the May 2022 Final Rule that it may address compliance and enforcement issues and procedures in a future agency action (*See* 87 FR 32757–32758), which is discussed further in sections II and III of this document.

II. Need To Amend Compliance Date

DOE has not yet issued procedures for reviewing and enforcing against noncompliance with the manufactured housing energy conservation standards in 10 CFR part 460. While manufacturers are capable of complying with the DOE standards as they are with minimal efforts, DOE nevertheless recognizes that enforcement procedures would help provide clarity to manufacturers that are new to DOE's regulatory program.

Accordingly, DOE will establish enforcement procedures in the coming months. This will provide clarity to manufacturers and consumers regarding DOE's means of enforcing the standards and how DOE will evaluate compliance. A delay of the current May 31, 2023, compliance date is therefore necessary to ensure that DOE can receive and incorporate meaningful stakeholder feedback into its enforcement procedures prior to the Rule's compliance date.

III. Discussion of Proposal

In this NOPR, DOE is proposing, under its authority to establish energy conservation standards for manufactured housing (42 U.S.C. 17071), to extend the compliance date for the manufactured housing energy conservation standards in 10 CFR part 460 until DOE's forthcoming enforcement procedures take effect. More specifically, DOE is proposing to require compliance with the Tier 1 standards 60 days after publication of its final enforcement procedures, and compliance with the Tier 2 standards 180 days after publication of its final enforcement procedures. With respect to the requirements of subpart C of part 460, DOE would similarly expect compliance with those provisions 60 days after publication of its final enforcement procedures for Tier 1 homes, and 180 days after publication of its final enforcement procedures for Tier 2 homes. DOE believes enforcement procedures will provide additional clarity to manufacturers and consumers regarding DOE's expectations of manufacturers and DOE's plans for enforcing the standards. Delaying the compliance date until after the enforcement procedures are effective will provide manufacturers time to

understand DOE's enforcement procedures and prepare their operations to ensure compliance with DOE's standards. DOE acknowledges that some of the consumer benefits (*e.g.,* cost savings) provided by DOE's standards will not be realized during the delay period. However, these benefits may not be fully realized if manufacturers lack clarity on how best to comply with DOE's standards or what to expect from DOE's enforcement of such standards. DOE believes that the absence of a clear, workable enforcement framework for manufacturers jeopardizes the full realization of the consumer benefits that will result from full implementation of the standards. This temporary delay is necessary to ensure the realization of the consumer benefits of DOE's standards. Accordingly, DOE proposes to delay the May 31, 2023, compliance date for the standards of 10 CFR part 460 until 60 days after DOE's publication of its final enforcement procedures for the Tier 1 standards, and 180 days after DOE's publication of its final enforcement procedures for the Tier 2 standards.

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

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

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

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

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

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

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

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

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

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

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 460

Administrative practice and procedure, Buildings and facilities, Energy conservation, Housing standards, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on March 16, 2023, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 17, 2023.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend

part 460 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 460—ENERGY CONSERVATION STANDARDS FOR MANUFACTURED HOMES

■ 1. The authority citation for part 460 continues to read as follows:

Authority: 42 U.S.C. 17071; 42 U.S.C. 7101 *et. seq.*

■ 2. Revise § 460.1 to read as follows:

§ 460.1 Scope.

This subpart establishes energy conservation standards for manufactured homes as manufactured at the factory, prior to distribution in commerce for sale or installation in the field. A manufactured home subject to the requirements of § 460.4(b) that is manufactured on or after [*date 60 days after the publication of the final rule*] must comply with all applicable requirements of this part. A manufactured home subject to the requirements of § 460.4(c) that is manufactured on or after [*date 180 days after the publication of the final rule*] must comply with all applicable requirements of this part.

[FR Doc. 2023–05873 Filed 3–23–23; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0439; Project Identifier MCAI–2022–01263–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by a report that a design deficiency was discovered which could allow a no-back pawl to be incorrectly installed in a horizontal stabilizer trim actuator (HSTA). This proposed AD would require a check for part number and serial numbers of the HSTA, and if necessary, inspection of the no-back pawl installation, and corrective action. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 8, 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–2023–0439; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0439; Project Identifier MCAI–2022–01263–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2022–55, dated September 21, 2022 (Transport Canada AD CF–2022–55) (also referred to after this as the MCAI), to correct an unsafe condition on certain Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states that during an unscheduled inspection, a design deficiency was discovered which could allow a no-back pawl to be incorrectly installed in a HSTA. The no-back mechanism is a primary means to prevent back driving of the HSTA, and the motor brake assemblies (MBAs) are the secondary means. If this condition is

not corrected, a non-functioning no-back mechanism in combination with loss of, or degraded HSTA MBA braking capability, could lead to a loss of control of the airplane. The MCAI also states that as a mitigating action, Transport Canada AD CF–2019–23, dated June 18, 2019, was issued to mandate a software upgrade for the horizontal stabilizer trim electronic control unit to verify the MBA for braking capability during the power up test on certain Bombardier, Inc., Model BD–100–1A10 airplanes. Transport Canada AD CF–2019–23 corresponds to FAA AD 2019–15–04, Amendment 39–19697 (84 FR 38862, August 8, 2019) (AD 2019–15–04).

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–0439.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletins 100–27–20 and 350–27–009, both Revision 1, both dated December 1, 2020. This service information specifies procedures for a check for part number and serial numbers of the HSTA, and if necessary, inspection of the no-back pawl installation and corrective action. Corrective actions include replacement of the HSTA, and a re-identification and test of the HSTA. These documents are distinct since they apply to different airplane configurations.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described. This proposed AD would also prohibit the installation of affected parts.

Regarding the corrective action for certain HSTAs, as specified in Bombardier Service Bulletins 100–27–20 and 350–27–009, both Revision 1, both dated December 1, 2020, rework of the HSTA is required by the manufacturer, since this manufacturer is the only producer of the affected part.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 703 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 2 work-hours × $85 per hour = $170	None	Up to $170	$119,510

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 25 work-hours × $85 per hour = $2,125	$2,905	Up to $5,030.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2023–0439; Project Identifier MCAI–2022–01263–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 8, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, having serial number 20003 and subsequent.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that a design deficiency was discovered which could allow a no-back pawl to be incorrectly installed in a horizontal stabilizer trim actuator (HSTA). The FAA is issuing this AD to address incorrectly installed no-back pawls. The unsafe condition, if not addressed, could result in a non-functioning no-back mechanism, which, in combination with loss of or degraded HSTA motor brake assembly (MBA) braking capability, could lead to a loss of control of the airplane.

(f) Compliance

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

(g) Records Check and Corrective Actions

Within 60 months after the effective date of this AD, check the airplane maintenance records or do a visual check to determine the part and serial numbers of the HSTA.

(1) If the part number is C47100–005: No further action is required by this paragraph.

(2) If the part number is C47100–004 and the serial number ends with the suffix—K: No further action is required by this paragraph.

(3) If the serial number is listed in the table referred to in paragraph 2.B.(4) of the Accomplishment Instructions of the applicable Bombardier service bulletin identified in figure 1 to paragraph (g)(3) of this AD: Within 60 months from the effective date of this AD, inspect the HSTA no-back mechanism pawls in accordance with paragraph 2.C. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

Figure 1 to paragraph (g)(3)—*Applicable service information*

Airplane Model	Applicable Bombardier Service Bulletin
BD-100-1A10 (CH300 marketing)	100-27-20, Revision 1, dated December 1, 2020
BD-100-1A10 (CH 350 marketing)	350-27-009, Revision 1, dated December 1, 2020

(i) If one or more pawls are not correctly installed: Before further flight, replace the HSTA in accordance with paragraph 2.E. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(ii) If all the pawls are correctly installed, re-identify and test the HSTA, and do all applicable corrective actions, in accordance with paragraphs 2.C.(4) and 2.F. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(4) If the serial number is listed in the table referred to in paragraph 2.B.(5) of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD: Within 60 months from the effective date of this AD, add a modification plate to the HSTA in accordance with paragraph 2.D. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(5) If the records check is inconclusive, or if a visual check instead of a records check of the HSTA was accomplished: Within 60 months from the effective date of this AD, verify the part and serial numbers of the HSTA, and verify the modification plate, in accordance with paragraph 2.B. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(i) If the HSTA has P/N C47100–005: No further action is required by this paragraph.

(ii) If the HSTA has P/N C47100–004 and a serial number that ends with the suffix—K, or if the modification plate contains ''SB C47100–27–02'' or ''SB C47100–27–03'': No further action is required by this paragraph.

(iii) If the serial number is listed in the table referred to in paragraph 2.B.(4) of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD: Within 60 months from the effective date of this AD, inspect the HSTA no-back mechanism pawls in accordance with paragraph 2.C. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(A) If one or more pawls are not correctly installed, before further flight, before further flight, replace the HSTA in accordance with Paragraph 2.E. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(B) If all the pawls are correctly installed, re-identify and test the HSTA, and do all applicable corrective actions, in accordance with paragraphs 2.C.(4) and 2.F. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(iv) If the serial number is listed in the table referred to in paragraph 2.B.(5) of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD: Within 60 months from the effective date of this AD, add a modification plate to the HSTA in accordance with paragraph 2.D. of the Accomplishment Instructions of the applicable service bulletin identified in figure 1 to paragraph (g)(3) of this AD.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a part identified in paragraph (h)(1) or (2) of this AD.

(1) An HSTA with P/N C47100–003 or P/N C47100–004 that does not have the suffix—K following the serial number.

(2) An HSTA with a modification plate showing ''SB C47100–27–02'' or ''SB C47100–27–03.''

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (i)(1) and (2) of this AD.

(1) Bombardier Service Bulletin 100–27–20, dated November 9, 2020.

(2) Bombardier Service Bulletin 350–27–009, dated November 9, 2020.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the New York ACO Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (k)(2) of this AD or email to: *9-avs-nyaco-cos@faa.gov.* If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(k) Additional Information

(1) Refer to Transport Canada AD CF–2022–55, dated September 21, 2022, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–0439.

(2) For more information about this AD, contact Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 100–27–20, Revision 01, dated December 1, 2020.

(ii) Bombardier Service Bulletin 350–27–009, Revision 01, dated December 1, 2020.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*

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

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

Issued on March 17, 2023.

Christina Underwood,

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

[FR Doc. 2023–05917 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0434; Product Identifier 91–NM–255–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to remove Airworthiness Directive (AD) 92–02–14, which applies to certain Airbus SAS Model A320 series airplanes. AD 92–02–14 was prompted by failure of the overwing emergency escape slides to deploy due to incorrect cable installations. AD 92–02–14 requires inspection for correct installation of the flexible control cables on the overwing emergency escape slides. AD 92–02–14 is no longer necessary because no new occurrences of incorrect cable installations have been reported, and existing maintenance activities are adequate to prevent new occurrences. Therefore, the FAA has determined that AD 92–02–14 is no longer necessary. Accordingly, the FAA proposes to remove AD 92–02–14.

DATES: The FAA must receive comments on this proposed AD by May 8, 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–2023–0434; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3225; email *Dan.Rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0434; Product Identifier 91–NM–255–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as

private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3225; email *Dan.Rodina@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.

Background

The FAA issued AD 92–02–14, Amendment 39–8150 (57 FR 5375, February 14, 1992) (AD 92–02–14), for certain Airbus SAS Model A320 series airplanes. AD 92–02–14 was prompted by failure of the overwing emergency escape slides to deploy due to incorrect cable installations. AD 92–02–14 requires inspection for correct installation of the flexible control cables on the overwing emergency escape slides. The FAA issued AD 92–02–14 to prevent failure of the overwing emergency escape slides to deploy, which would compromise use of the exit during an emergency.

AD 92–02–14 corresponded to AD 91–153–018, dated July 10, 1991, issued by the Direction Générale de l'Aviation Civile (DGAC), the former airworthiness authority of France (DGAC France AD 91–153–018).

Actions Since AD 92–02–14 Was Issued

Since the FAA issued AD 92–02–14, EASA issued AD Cancellation Notice 2022–0160–CN, dated August 4, 2022 (EASA AD Cancellation Notice 2022–0160–CN), to cancel DGAC France AD 91–153–018. EASA Cancellation Notice 2022–0160–CN states that since DGAC France AD 91–153–018 was issued, affected slides have been overhauled (dismantled and maintained) every 3 calendar years. No new occurrences have been reported of incorrect cable installations. It has also been determined that existing Aircraft Maintenance Manual and Maintenance Review Board Report tasks are adequate to prevent new occurrences.

FAA's Conclusions

Upon further consideration, the FAA has determined that AD 92–02–14 is no longer necessary. Accordingly, this proposed AD would remove AD 92–02–14. Removal of AD 92–02–14 would not prevent the FAA from issuing another related action or commit the FAA to any course of action in the future. This proposed AD would terminate, and therefore remove, all requirements of AD 92–02–14.

Related Costs of Compliance

This proposed AD would add no cost. This proposed AD would remove AD 92–02–14 from 14 CFR part 39; therefore, operators would no longer be required to show compliance with that AD.

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.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 92–02–14, Amendment 39–8150 (57 FR 5375, February 14, 1992), and

■ b. Adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2023–0434; Product Identifier 91–NM–255–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by May 8, 2023.

(b) Affected Airworthiness Directive (AD)

This AD replaces AD 92–02–14, Amendment 39–8150 (57 FR 5375, February 14, 1992) (AD 92–02–14).

(c) Applicability

This AD applies to Airbus Model A320–211, A320–212, and A320–231 airplanes, certificated in any category, manufacturer serial numbers 002 through 162 inclusive, 167, and 171 through 174 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Terminating Action

This AD terminates all requirements of AD 92–02–14.

(f) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206–231–3225; email *Dan.Rodina@faa.gov.*

(g) Material Incorporated by Reference

None.

Issued on March 14, 2023.

Christina Underwood,

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

[FR Doc. 2023–05710 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0653; Project Identifier AD–2023–00280–E]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all CFM International, S.A. (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A (LEAP–1A) model turbofan engines. This proposed AD was prompted by a manufacturer investigation that revealed that certain high-pressure turbine (HPT) rotor stage 1 disks (HPT stage 1 disks), forward outer seals, and stages 6–10 compressor rotor spools were manufactured from material suspected to have reduced material properties due to iron inclusion. This proposed AD would require replacement of certain HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 24, 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* by searching for and locating Docket No. FAA–2023–0653; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *fleetsupport@ge.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0653; Project Identifier AD–2023–00280–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

The FAA has been informed that CFM has done some outreach with affected operators regarding the proposed corrective actions for this unsafe condition. As a result, affected operators are already aware of the proposed corrective actions and, in some cases, have already begun planning for replacement of certain HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools. Therefore, the FAA has determined that a 30-day comment period is appropriate given the particular circumstances related to the proposed correction of this unsafe condition.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA was notified by the manufacturer of the detection of iron inclusion in three non-LEAP–1A HPT rotor disks. Further investigation by the manufacturer determined that the iron inclusion is attributed to deficiencies in the manufacturing process. The investigation by the manufacturer also determined that certain CFM LEAP–1A HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools manufactured using the same process may have reduced material properties and a lower fatigue life capability due to iron inclusion, which may cause premature fracture and subsequent uncontained failure of certain HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools. This condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the aircraft.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information issued by CFM, which identify the part numbers and serial numbers of HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools with potentially

reduced material properties and specify procedures for replacement of these parts. These documents are distinct since they apply to different engine serial numbers.

- Service Bulletin LEAP–1A–72–00–0470–01A–930A–D, Issue 003, dated March 3, 2023.
- Service Bulletin LEAP–1A–72–00–0493–01A–930A–D, Issue 002, dated November 17, 2022.
- Service Bulletin LEAP–1A–72–00–0496–01A–930A–D, Issue 001, dated March 7, 2023.

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

Proposed AD Requirements in This NPRM

This proposed AD would require replacement of certain HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools. This proposed AD would also prohibit installation of an HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor spool that has a part number and serial number identified in the service information onto any engine.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 38 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace HPT stage 1 disk (38 affected parts).	8 work-hours × $85 per hour = $680	$215,635 (pro-rated)	$216,315	$8,219,970
Replace forward outer seal (24 affected parts).	8 work-hours × $85 per hour = $680	$47,500 (pro-rated) ...	48,180	1,156,320
Replace stages 6-10 compressor rotor spool (15 affected parts).	8 work-hours × $85 per hour = $680	$37,660 (pro-rated) ...	38,340	575,100

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

CFM International, S.A.: Docket No. FAA–2023–0653; Project Identifier AD–2023–00280–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 24, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International, S.A. (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section; 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturer investigation that revealed that certain HPT stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools were manufactured from material suspected to have reduced material properties due to iron inclusion. The FAA is issuing this AD to prevent fracture and subsequent uncontained failure of certain high-pressure turbine (HPT) stage 1 disks, forward outer seals, and stages 6–10 compressor rotor spools. The unsafe condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the aircraft.

(f) Compliance

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

(g) Required Actions

(1) For engines with an installed HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor spool having a part number (P/N) and serial number (S/N) identified in Compliance, paragraph 3.E., Tables 1 through 9, of CFM Service Bulletin (SB) LEAP–1A–72–00–0496–01A–930A–D, Issue 001, dated March 7, 2023 (CFM SB LEAP–1A–72–00–0496–01A–930A–D): At the next piece-part exposure of the HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor

spool, as applicable, or before exceeding the applicable cycles since new (CSN) threshold identified in Compliance, paragraph 3.E., Tables 1 through 9, of CFM SB LEAP–1A–72–00–0496–01A–930A–D, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 flight cycles (FCs) from the effective date of this AD; remove the HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor spool, as applicable, from service and replace with a part eligible for installation.

(2) For engines with an installed forward outer seal having a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0470–01A–930A–D, Issue 003, dated March 3, 2023 (CFM SB LEAP–1A–72–00–0470–01A–930A–D): At the next piece-part exposure of the forward outer seal, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0470–01A–930A–D, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 FCs from the effective date of this AD; remove the forward outer seal from service and replace with a part eligible for installation.

(3) For engines with an installed HPT stage 1 disk having a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0493–01A–930A–D, Issue 002, dated November 17, 2022 (CFM SB LEAP–1A–72–00–0493–01A–930A–D): At the next piece-part exposure of the HPT stage 1 disk, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0493–01A–930A–D, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 FCs from the effective date of this AD; remove the HPT stage 1 disk from service and replace with a part eligible for installation.

(h) Definition

For the purpose of this AD, a ''part eligible for installation'' is an HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor spool that does not have a P/N and S/N identified in the service information listed in paragraphs (g)(1) through (3) of this AD.

(i) Installation Prohibition

After the effective date of this AD, do not install an HPT stage 1 disk, forward outer seal, or stages 6–10 compressor rotor spool that has a P/N and S/N identified in the service information listed in paragraphs (g)(1) through (3) of this AD on any engine.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 certification office, send it to the attention of the person identified in paragraph (k) of this AD and email to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; email: *Mehdi.Lamnyi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) CFM International, S.A. Service Bulletin LEAP–1A–72–00–0470–01A–930A–D, Issue 003, dated March 3, 2023.

(ii) CFM International, S.A. Service Bulletin LEAP–1A–72–00–0493–01A–930A–D, Issue 002, dated November 17, 2022.

(iii) CFM International, S.A. Service Bulletin LEAP–1A–72–00–0496–01A–930A–D, Issue 001, dated March 7, 2023.

(3) For service information identified in this AD, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *fleetsupport@ge.com.*

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

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

Issued on March 17, 2023.

Christina Underwood,

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

[FR Doc. 2023–05862 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 50, 55, 58, and 200

[Docket No. FR–6272–P–01]

RIN 2506–AC54

Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise HUD's regulations governing floodplain management and the protection of wetlands to implement the Federal Flood Risk Management Standard (FFRMS), in accordance with the Executive order, ''Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input,'' to improve the resilience of HUD-assisted or financed projects to the effects of climate change and natural disasters, and provide for greater flexibility in the use of HUD assistance in floodways under certain circumstances. Among other revisions, the rule would provide a process for determining the FFRMS Floodplain that would establish a preference for the climate-informed science approach (CISA), and it would revise HUD's floodplain and wetland regulations to streamline them, improve overall clarity, and modernize standards. This proposed rule would also revise HUD's Minimum Property Standards for one-to-four unit housing under HUD mortgage insurance and under low-rent public housing programs to require that the lowest floor in both newly constructed and substantially improved structures located within the 1-percent-annual-chance (100-year) floodplain be built at least 2 feet above the base flood elevation as determined by best available information, and it would revise a categorical exclusion when HUD performs environmental reviews, and update various HUD environmental regulations to permit online posting of public notices.

DATES: *Comment Due Date:* May 23, 2023.

ADDRESSES: Interested persons are invited to submit public comments regarding this proposed rule using one of the two methods for submitting public comments described below. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin L. Fontenot, Director, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410–8000. For inquiry by phone or email, contact Lauren Hayes Knutson, Director, Environmental Planning Division, Office of Environment and Energy, Office of Community Planning and Development, at 202–402–4270 (this is not a toll-free number), or email to: *Lauren.E.Hayes@hud.gov.* For questions regarding the Minimum Property Standards, contact Kevin Stevens, Acting Director, Office of Single Family Program Development, 202–402–4317. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. Background

In the past decade alone, there were over 1,100 direct flood fatalities in the United States.[1] With climate change and associated sea-level rise, flooding risks have increased over time, and are anticipated to continue increasing. The Fourth National Climate Assessment (2018), for example, projects that tide flooding will become more disruptive and costlier in the coming decades. Observed increases in the frequency and intensity of heavy precipitation events in most parts of the United States are projected to continue, with increased Atlantic and eastern North Pacific hurricane rainfall and intensity and increasing frequency and severity of landfalling ''atmospheric rivers'' on the West Coast.[2] Severe flooding can cause significant damage to infrastructure, including buildings, roads, ports, industrial facilities, and even coastal military installations. Since 1980, the U.S. has sustained 323 weather and climate disasters where the overall damage costs reached or exceeded $1 billion, with total costs exceeding $2.195 trillion.[3] It is therefore necessary to take action to responsibly use Federal funds, and HUD must ensure it makes Federal investments wisely to minimize losses, particularly following repeated flooding events.

In response to the threats that increasing flood risks pose to life and taxpayer funded property, on January 30, 2015, President Obama signed Executive Order (E.O.) 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. Significantly, E.O. 13690 amended E.O. 11988, Floodplain Management, issued in 1977[4] by, among other things, revising Section 6(c) of E.O. 11988 to provide new approaches to establish the floodplain. E.O. 13690 provided, however, that prior to any actions implementing E.O. 13690, additional input from stakeholders be solicited and considered. Consistent with this direction, the Federal Emergency Management Agency (FEMA), as Chair of the Mitigation Framework Leadership Group (MitFLG,[5]) published a notice in the **Federal Register** seeking comment on the proposed ''Revised Guidelines for Implementing Executive Order 11988, Floodplain Management'' to provide guidance to agencies on the implementation of E.O. 13690 and 11988 (80 FR 6530, February 5, 2015). On March 26, 2015 (80 FR 16018), FEMA on behalf of MitFLG published a notice in the **Federal Register** extending the public comment period for 30 days until May 6, 2015. MitFLG held 9 public listening sessions across the country that were attended by over 700 participants from State and local governments and other stakeholder organizations to discuss the Guidelines.[6] MitFLG considered stakeholder input and provided recommendations to the U.S. Water Resources Council (WRC).[7]

[1] *https://www.weather.gov/arx/usflood.*

[2] The Fourth National Climate Assessment is available at *https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf.*

[3] *https://www.ncei.noaa.gov/access/billions/.*

[4] E.O. 13690 was published in the **Federal Register** on February 4, 2015 (80 FR 6425). Throughout this document, references to E.O. 11988 as amended by E.O. 13690 will be referred to as ''E.O. 11988, as amended.'' References to E.O. 11988 as published in 1977 will simply be referred to as ''E.O. 11988.''

[5] The Mitigation Framework Leadership Group (MitFLG) is a senior level group formed in 2013 to coordinate mitigation efforts across the Federal Government and to assess the effectiveness of mitigation capabilities as they are developed and deployed across the Nation. The MitFLG includes relevant local, state, tribal, and Federal organizations. The balance of non-Federal members ensures appropriate integration of Federal efforts across the whole community. More information about MitFLG can be found at *https://www.fema.gov/emergency-managers/national-preparedness/frameworks/mitigation/mitflg.*

[6] Specific information on the listening sessions can be found in the notices on the docket at *https://www.regulations.gov/docket/FEMA-2015-0006/document?documentTypes=Notice.* Transcripts of those sessions are available on the docket at *https://www.regulations.gov/docket/FEMA-2015-0006/document?documentTypes=Supporting%20%26%20Related%20Material.*

[7] The U.S. Water Resources Council (WRC) is a statutory body tasked to maintain a continuing study and prepare an assessment of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein. 42 U.S.C. 1962a. The WRC is a means for the coordination of the water and related land resources policies and programs of several Federal agencies. The WRC is composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the

On October 8, 2015, the WRC issued updated ''Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input'' (Guidelines).[8] The Guidelines state that although the Guidelines describe various approaches for determining the higher vertical flood elevation and corresponding horizontal floodplain for federally funded projects, they are not meant to be an elevation standard, but rather a resilience standard. However, the Guidelines provide that all future actions where Federal funds are used for new construction, substantial improvement,[9] or to address substantial damage [10] meet the level of resilience established by the Guidelines. In implementing the Guidelines and establishing the Federal Flood Risk Management Standard (FFRMS), Federal agencies were to select among the following three approaches for establishing the flood elevation and hazard area in siting, design, and construction:

- Climate-Informed Science Approach (CISA): The elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data,
- Freeboard [11] Value Approach (FVA): The elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation (the 100-year, or 1-percent-annual-chance flood elevation) for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions, or
- 0.2-Percent-Annual-Chance (500-Year) Flood Approach: The elevation and flood hazard area that result from using the 0.2-percent-annual-chance flood approach (500-year flood elevation).

The FVA and 0.2-percent-annual-chance flood approach result in higher elevations than regulating to base flood elevation with correspondingly larger horizontal floodplain areas. CISA will generally have a similar result, with the exception that agencies using CISA may find the resulting elevation to be equal to or lower than the current elevation in some areas due to the nature of the specific climate change processes and physical factors affecting flood risk at the project site. However, as a matter of policy established in the Guidelines, CISA can only be used if the resulting flood elevation is equal to or higher than current base flood elevation.

E.O. 11988, issued May 24, 1977 (published in the **Federal Register** on May 25, 1977, at 42 FR 26951), directs Federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. Floodplains are found both in coastal flood areas, where rising tides and storm surge are often responsible for flooding, and in riverine flood areas where moving water bodies may overrun their banks due to heavy rains or snow melt. E.O. 11988 recommended the use of FEMA floodplain maps to identify the floodplain area. Because flood risk can change over time, FEMA continually revises Flood Insurance Rate Maps (FIRMs), advisory base flood elevations, and preliminary floodplain maps and studies to incorporate new information and reflect current understanding of flood risk.

Prior to E.O. 13690, a floodplain for E.O. 11988 purposes referred to the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum that area subject to a one percent or greater chance of flooding in any given year (referred to as the ''1-percent-annual-chance flood,'' ''100-year'' flood or ''base flood''). E.O. 13690 amended E.O. 11988 to direct agencies to update the original E.O. 11988 floodplain using one (or a combination) of the three approaches listed above, which are incorporated in the FFRMS.

To move towards implementing E.O. 13690, HUD published a proposed rule on October 28, 2016, titled ''Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard'' (81 FR 74967). E.O. 13690 was revoked by E.O. 13807 of August 15, 2017 (Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects), and HUD subsequently withdrew the proposed rule from its Unified Agenda of Regulatory and Deregulatory Actions on December 22, 2017 (82 FR 60693). E.O. 13690 was reinstated by E.O. 14030 of May 20, 2021 (Climate-Related Financial Risk), published at 86 FR 27967.

Thousands of communities across the country have already strengthened their local floodplain management codes and standards to ensure that buildings and infrastructure are resilient to flood risk. By implementing the FFRMS, HUD's standards will better align with these actions. At the same time, HUD recognizes that the need to make structures resilient also requires a flexible approach to adapt to the needs of the Federal agency, local community, and the circumstances surrounding each project or action.

II. Existing HUD Standards and the 2016 Proposed Rule

Consistent with E.O. 11988, when no practicable alternative exists to development in flood-prone areas, HUD requires the design or modification of the proposed action to minimize potential adverse impact to and from flooding. HUD has used and continues to use the term ''adverse impacts'' synonymously with the term ''harm'' throughout its regulations in part 55. HUD has implemented E.O. 11988 and its 8-step decisionmaking process through regulations at 24 CFR part 55. The 8-step decisionmaking process is the compliance process for activities occurring in the floodplain and includes a public notice requirement, examination of practicable alternatives, evaluation of potential impacts, and modifications to minimize adverse impacts. HUD requires implementation of the 8-step process by HUD staff or responsible entities (States, Indian Tribes, or units of general local government) for activities occurring in the floodplain such as new construction of infrastructure or substantial improvement of buildings and hospitals. HUD requires that HUD-assisted or

Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Secretary of Energy.

[8] Available at: *https://www.fema.gov/sites/default/files/documents/fema_implementing-guidelines-EO11988-13690_10082015.pdf.* HUD notes that the WRC is not currently active.

[9] HUD currently defines substantial improvement in 24 CFR 55.2(b). This proposed rule would not change this definition except by moving it from its current location in § 55.2(b)(10) to proposed § 55.2(b)(12) to reflect other changes to that section.

[10] Substantial damage is defined in FEMA regulations at 44 CFR 59.1 as ''damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.'' For more information on substantial improvement and substantial damage, see *https://www.fema.gov/sites/default/files/2020-08/fema_p_758_complete_r3_0.pdf.*

[11] Freeboard is defined by FEMA as ''a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.'Freeboard' tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.'' See 44 CFR 59.1. See also *http://www.fema.gov/freeboard.*

financed construction and improvements (including mortgage insurance actions) undergo the 8-step process unless they are subject to an exception or categorical exclusion under 24 CFR 50.19, 24 CFR 55.12, 24 CFR 58.34, or 24 CFR 58.35(b). For example, the 8-step process in § 55.20 does not apply to HUD's insurance of one- to four-family mortgages under the Lender Insurance program, where HUD does not review or approve the mortgage insurance before completion of construction or rehabilitation and the loan closing, since such mortgage insurance is subject to a categorical exclusion under 24 CFR 50.19(b)(17).

While the 8-step process may not apply to these activities, HUD's current Minimum Property Standards at 24 CFR 200.926d require that single-family housing newly constructed under HUD mortgage insurance and specific low-rent public housing programs have its lowest floor at or above the base flood elevation.

In the wake of recovery from the devastating effects of Hurricane Sandy and other flood disasters, HUD's 2016 proposed rule on floodplain management and the protection of wetlands was written with the intention of ensuring that structures located in flood-prone areas are built or rebuilt stronger, safer, and less vulnerable to future flooding events. At that time, HUD proposed standards that would have been consistent with FVA as described above for HUD assisted or financed actions. Structures involving new construction and substantial improvements and subject to 24 CFR part 55 would have had to have been elevated (for non-critical actions) at least 2 feet above the base flood elevation, or (for critical actions) the greater of the 0.2-percent-annual-chance floodplain or 3 feet above the base flood elevation using best available information.[12] For new or substantially improved non-residential structures in the FFRMS floodplain that are not critical actions, HUD proposed that the structure either be elevated to the same level as residential structures, or, alternatively, be designed and constructed such that the structure is floodproofed to at least 2 feet above the base flood elevation. The 2016 proposed rule also would have revised HUD's Minimum Property Standards for one-to-four-unit housing under HUD mortgage insurance and low-rent public housing programs to require that both newly constructed and substantially improved structures located within the 1-percent-annual-chance floodplain be built with the lowest floor at least 2 feet above base flood elevation based on best available information.

In 2016, HUD chose FVA over CISA and the 0.2-percent-annual-chance flood approach because it could be applied consistently to any area participating in the National Flood Insurance Program (NFIP), and it could be calculated using existing flood maps.

Although the 2016 proposed rule was never finalized, HUD has implemented program-specific policies to increase resilience to flooding. For example, residential new construction and substantial improvements funded with Community Development Block Grant Disaster Recovery (CDBG–DR) assistance in the 1-percent-annual-chance floodplain are now required to elevate two feet above base flood elevation.[13] Similarly, HUD's Office of Multifamily Housing (MF) recently updated its Multifamily Accelerated Processing (MAP) Guide standards for FHA multifamily projects to require new construction projects in 1-percent-annual-chance floodplains to elevate two feet above base flood elevation.[14] The Office of Multifamily Housing has extended the same limitations that apply in coastal high hazard areas (V Zones) to all areas within the Limit of Moderate Wave Action (LiMWA) for new construction and substantial rehabilitation, with lesser but still significant limitations on existing properties.[15]

III. This Proposed Rule

In its 2021 Climate Action Plan,[16] HUD committed to completing rulemaking to update 24 CFR part 55 of its regulations and implement FFRMS as a key component of its plan to increase climate resilience and climate justice across the Department, noting that low-income families and communities of color are disproportionately impacted by climate change.[17] Development of equitable strategies to protect low- to moderate-income persons and businesses serving these communities is at the core of HUD's mission to create strong, sustainable, inclusive communities. As stated in its Climate Action Plan, HUD intends to address existing inequities by maximizing investments in low-income communities, communities of color, and other disadvantaged and historically underserved communities.

HUD notes that affordable housing is increasingly at risk from both extreme weather events and sea-level rise, and that coastal communities are especially at risk. Recent analysis and mapping by independent research organization Climate Central projects that the number of affordable housing units at risk from flooding in coastal areas will triple by 2050,[18] and a report from the Denali Commission found that 144 Native Alaskan Villages (43 percent of all Alaskan communities) experienced infrastructure damage from erosion, flooding, and permafrost thaw.[19]

HUD's experience in the wake of flood disasters is that unless structures in flood-prone areas are properly designed, constructed, and elevated, they may not withstand future severe flooding events. This is exacerbated by climate change and projected increases in hurricane rainfall and intensity as well as other precipitation throughout most of the United States. It is therefore critical that HUD take a forward-looking approach to floodplain management, basing decisions not just on past flooding but on how flood risk is anticipated to grow and change over the anticipated life of a project.

HUD's regulations in 24 CFR part 55 currently rely on FEMA FIRMs, which map the 1-percent-annual-chance (100-year) floodplain based on historic flood data. These maps are critical resources when assessing flood risk, but they are not intended to reflect changes in future flood risk influenced by a changing climate. This rule would expand HUD's floodplain of concern from the

[12] Best available information may be the latest FEMA issued data or guidance, including advisory data (such as Advisory Base Flood Elevations (ABFE)), preliminary Flood Insurance Rate Maps (FIRMs), final FIRMs, or other Federal, State, or local information.

[13] See, *e.g.,* FR–6303–N–01, Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice published at 87 FR 6364 (February 3, 2022). This requirement was first implemented for the 2015 class of disaster recovery grantees, see FR–5938–N–01, Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees Notice published at 81 FR 39687 (June 17, 2016).

[14] See Multifamily Accelerated Processing (MAP) Guide Revision March 19, 2021, Page 9–43. Available at: *https://www.hud.gov/sites/dfiles/OCHCO/documents/4430GHSGG.pdf.*

[15] *Id.* p. 9–42.

[16] *https://www.hud.gov/climate.*

[17] *https://nca2018.globalchange.gov/.*

[18] Maya K. Buchanan et al. (2020). Environ. Res. Lett., 15, 124020.

[19] Alaska Division of Geological & Geophysical Surveys. February 23, 2021. *Alaska's Environmentally Threatened Communities.* ArcGIS, *https://storymaps.arcgis.com/stories/2a0d221e55ca48dd8092427b50a98804* (*interpreting* University of Alaska Fairbanks Institute of Northern Engineering et al., *Statewide Threat Assessment: Identification of Threats from Erosion, Flooding, and Thawing Permafrost in Remote Alaska Communities—Report Prepared for the Denali Commission,* November, 2019, *available at https://www.denali.gov/wp-content/uploads/2019/11/Statewide-Threat-Assessment-Final-Report-20-November-2019.pdf.*

1-percent-annual-chance floodplain to the FFRMS floodplain, designated based on projected future risk, to ensure that HUD projects are designed with a more complete picture of a proposed project site's flood risk over time.

Flood risk projection based on current climate science can help HUD meet the original objectives of E.O. 11988, including avoidance of floodplain impacts and minimization of such impacts where there is no practicable alternative to locating a HUD-assisted activity in proximity to flood sources. Together with the use of natural systems, ecosystem processes, and nature-based approaches to preservation of beneficial floodplain function, adequate elevation of structures is a key minimization strategy.

As recognized by MitFLG and directed by the FFRMS and E.O. 13690, requiring structures to be elevated or floodproofed to an additional elevation above the base flood elevation will increase resiliency and reduce loss of life, property damage, and other economic loss, and can also benefit homeowners by reducing flood insurance rates. These higher elevations provide an extra buffer above the base flood elevation based on the best available information to improve the long-term resilience of communities. Additionally, higher elevation standards help account for increased flood risk associated with projected sea level rise, increased rainfall, and other climate risks, which are not considered in current FEMA maps and flood insurance costs. As stated in ''Global and Regional Sea Level Rise Scenarios for the United States'' (February 2022) by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) [20] scientists are confident that global sea level will rise by between about 1 and 6.555 feet by 2100.[21] Higher elevation standards will address the lower end of this projection, while also allowing for greater impacts to be addressed as well.

Requiring additional elevation above the base flood elevation may also lead to a net reduction of expected housing costs over time. HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. Flood insurance is a key financial tool to manage potential rebuilding costs but can make homes in risky areas less affordable. By elevating additional feet above the base flood elevation, homeowners may benefit from flood insurance premium reductions that will increase long-term affordability.

As previously discussed, in 2016, HUD chose FVA for defining floodplains. Since 2016, the Federal Government has developed and made publicly available additional flood risk hazard information in coastal areas based on climate informed science, including sea-level rise predictions. Record storms have provided additional data on the flood risk faced by inland areas, and climate mapping efforts have proceeded at the Federal and State level.

HUD has thus reconsidered its policy approach and now prefers the CISA approach because it provides a forward-looking assessment of flood risk based on likely or potential climate change scenarios, regional climate factors, and an advanced scientific understanding of these effects. Therefore, in this proposed rule, the required level of flood resilience for floodplain management decisionmaking, elevation of structures, and floodproofing would be established using CISA for areas where CISA analysis following the Guidelines has been approved by HUD. HUD intends to rely on CISA tools and implementation resources being developed by a subgroup of the White House Flood Resilience Interagency Working Group to implement CISA analysis. Where CISA data is not available to define the FFRMS floodplain, the level of flood resilience would be based on the FEMA-mapped 0.2-percent-annual-chance (500-year) floodplain or a freeboard height above the FEMA-mapped 1-percent-annual-chance floodplain depending on the criticality of the action, based on available data.

Beyond proposing to implement FFRMS floodplain and elevation requirements, HUD is proposing broader changes to modernize and improve 24 CFR part 55 in accordance with the Department's climate adaptation, environmental justice, and equity priorities. These revisions would explicitly recognize HUD's responsibility to consider the environmental justice impact of the Department's actions within the floodplain management and decisionmaking process. To more effectively and efficiently meet HUD's affordable housing and community development mission, the rule would also streamline decisionmaking for activities that mitigate flood risk, avoid wetland losses, or provide co-benefits that directly contribute to HUD's efforts to reduce climate impacts. HUD is also seeking to strengthen the commitment to use nature-based floodplain management approaches where practicable by identifying specific strategies and practices that have proven effective in increasing flood resilience and environmental quality.

HUD notes that just as its existing regulations pertaining to floodplain management and the protection of wetlands must be applied in conjunction with other statutory and regulatory authorities, adherence to these proposed regulatory revisions would not modify any party's responsibilities or obligations under any other Federal laws, including statutes and regulations administered by other Federal agencies.

A. Federal Flood Risk Management Standard (FFRMS) Floodplain

To implement this framework, HUD proposes to define the FFRMS floodplain in a new section 24 CFR 55.7. This section would establish a three-tiered approach to define the FFRMS floodplain, depending on the data and mapping available in the project area.

1. *Climate Informed Science Approach (CISA):* The FFRMS floodplain would be defined as areas designated as having an elevated flood risk during the anticipated life of the project based on CISA, wherever maps developed using CISA are available and have been approved by HUD. The CISA approach for critical actions will generally use the same methodology as the approach for non-critical actions, but selection of climate change scenarios used for future projections should account for the lower tolerance of risk based on the action's criticality. Where part 55 applies,[22] CISA would be the required methodology to define the FFRMS floodplain if HUD-approved maps are available. When preparing an Environmental Impact Statement (EIS), an analysis of sea level rise and other climate impacts utilizing climate informed science, future projection, and other climate risk tools would be required regardless of whether pre-existing CISA maps are available for reference. Pursuant to the Guidelines, a base flood elevation based on CISA data cannot be used if it is lower than the current FIRM or Flood Insurance Study (FIS). Under this proposed rule, a responsible entity would have the option of using CISA at the project-specific level to define the FFRMS floodplain even where it is not required, but only where this results in a higher

[20] *https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report-sections.html.*

[21] See *https://toolkit.climate.gov/topics/coastal/sea-level-rise.*

[22] All HUD programs, with the exception of programs that are not subject to NEPA (*e.g.,* the FHA single family program subject to the Minimum Property Standards, and the Housing Trust Fund), are subject to Part 55. Certain projects may be exempt from Part 55 based on project activities (see § 55.12 of this proposed rule).

elevation than would be required using the 0.2-percent-annual-chance (500-year) and freeboard value methods.

2. *0.2 Percent-Annual-Chance Flood Approach (500-year Floodplain Approach):* For non-critical actions, where CISA maps or other types of CISA analysis are not available, but FEMA has defined the 0.2-percent-annual-chance floodplain, the FFRMS floodplain would be defined as those areas that FEMA has designated as within the 0.2-percent-annual-chance floodplain, and structures would need to be elevated to or above the 0.2-percent-annual-chance floodplain.

3. *Freeboard Value Approach (FVA):* If neither CISA nor FEMA-mapped 0.2-percent-annual-chance floodplain data is available, for non-critical actions, the FFRMS floodplain would be defined as those areas that result from adding an additional two feet to the base flood elevation as established by the effective FEMA FIRM or FIS or—if available—a FEMA-provided preliminary or pending FIRM or FIS or advisory base flood elevations, whether regulatory or informational in nature. However, an interim or preliminary FEMA map could not be used if it is lower than the current FIRM or FIS.

For critical actions where CISA data is not available, the FFRMS floodplain would be either the area within the 0.2-percent-annual-chance floodplain or the area that results from adding an additional three feet to the base flood elevation, whichever is higher. The larger floodplain and higher elevation would need to be applied where the 0.2-percent-annual-chance floodplain is mapped.

If CISA maps are not available and FEMA FIRMs, FIS, preliminary maps and advisory base flood elevations are unavailable or insufficiently detailed to determine base flood elevation, other Federal, State, local, or Tribal data could be used as ''best available information'' to define the 1-percent-annual-chance floodplain. For non-critical actions, the FFRMS floodplain would be the area that results from adding an additional two feet to the base flood elevation based on best available information. For critical actions, the FFRMS floodplain would be the greater of either the 0.2-percent-annual-chance floodplain based on best available information or areas that result from adding an additional three feet to the base flood elevation based on best available information. Where the 0.2-percent-annual-chance floodplain is mapped, the larger floodplain and higher elevation must be applied. When these cases arise, HUD will provide guidance regarding what other Federal, State, local, or Tribal data may be sufficient to be used as ''best available information.''

B. Revised Definitions

This proposed rule would revise various definitions in 24 CFR 55.2. The definition of best available information is currently appended to the definition of ''coastal high hazard area'' (the coastal area subject to high velocity waters from wind and wave hazards, as designated on a FIRM or FIS or in best available information), but applies to coastal high hazard areas, floodplains, and floodways alike. This organizational structure has created confusion for readers and is not compatible with the unique approach to identifying the FFRMS floodplain directed by E.O. 13690. The proposed rule therefore relocates the definition of best available information from within the definition of coastal high hazard area in 24 CFR 55.2 to two new sections, 24 CFR 55.7 and 55.8. It also adjusts the definitions of ''0.2-percent-annual-chance (500-year) floodplain,'' ''floodway,'' and ''1-percent-annual-chance (100-year) floodplain,'' to reflect the new citation.

Sources of best available information for identifying the FFRMS floodplain would be described in 24 CFR 55.7 according to the CISA, 0.2-Percent-Annual-Chance Flood, and FVA methods. Best available information sources for floodways, coastal high hazard areas, and areas within the Limit of Moderate Wave Action (LiMWA) would be identified in 24 CFR 55.8 and include both effective and advisory or preliminary FEMA maps, similar to the current description of best available information within the coastal high hazard area definition.

''Critical action'' would be revised to include community stormwater management infrastructure and water treatment plants as examples of utilities or services that could become inoperative during flood and storm events.

A definition of ''FFRMS floodplain'' would be added and the definition of 0.2-percent-annual-chance floodplain would be updated consistent with the FFRMS approach and to remove the statement that the 0.2-percent-annual-chance floodplain is the minimum area of concern for critical actions, which may not be consistent with HUD's implementation of FFRMS when CISA analysis is available.

A definition for ''impervious surface area'' would be added to provide an objective criterion for use in the proposed §§ 55.8(a)(1), 55.12, and 55.14.

HUD also proposes to add a definition for the LiMWA based on FEMA criteria.[23] The LiMWA is the inland limit of the area expected to receive 1.5-foot or greater breaking waves during a 1-percent-annual-chance flood event. The area on the flood map between the coastal high hazard area (Zone V) and the LiMWA is called the Coastal A Zone, and laboratory tests have consistently confirmed that wave heights within the Coastal A Zone can cause significant damage to structures that are not constructed to withstand coastal hazards.[24] Consistent with FEMA guidance, this proposed rule would require structures within the Coastal A Zone to be built to Zone V standards.

The definition for new construction would be removed and incorporated into a new § 55.10, ''Limitations on HUD assistance in wetlands'' with additional context on construction actions.

The definition for ''wetlands'' would be revised to clarify what is not included (certain ponds or deepwater aquatic habitats), and the part of the definition that describes how wetlands are determined would be removed from this section and moved to a new § 55.9, ''Identifying wetlands.''

C. Assignment of Responsibilities

HUD proposes to clarify in 24 CFR 55.3 that HUD Assistant Secretaries, the General Counsel, and the President of the Government National Mortgage Association (GNMA) shall take full responsibility for all decisions made under their jurisdictions that are made pursuant to the decisionmaking process in 24 CFR 55.20. The duties of grantees and applicants would be revised for clarity, and a new § 55.3(f) codifying the role of third-party providers would be added.

D. Notification of Floodplain Hazard

This proposed rule would revise HUD's regulations requiring notification of floodplain hazard. It would move notification requirements from the current 24 CFR 55.21 and conveyance restrictions from the current 24 CFR 55.22 to a new 24 CFR 55.4 to emphasize the importance of providing notice as early in the process as possible. This section would retain the requirement that HUD (or HUD's designee) or the responsible entity must ensure that any party participating in a financial transaction for a property

[23] See: *https://www.fema.gov/sites/default/files/documents/fema_using-limit-oderate-wave-action_fact-sheet_5-24-2021.pdf.*

[24] See: Answers to Questions About the NFIP (page 46), available at *https://agents.floodsmart.gov/sites/default/files/fema-answers-to-questions-about-the-NFIP.pdf.*

located in a floodplain and any current or prospective tenant is notified of the hazards of the floodplain location. In addition, the new 24 CFR 55.4 would define notification requirements for property owners, buyers, developers, and renters and identify specific hazards and information that should be included in these notices based on the interests of these parties. Required information for owners, buyers, and developers would include the requirement or option to obtain flood insurance, the approximate elevation of the FFRMS floodplain, proximity of the site to flood-related infrastructure including dams and levees,[25] ingress and egress or evacuation routes, disclosure of information on flood insurance claims filed on the property, and other relevant information such as available emergency notification resources. For HUD-assisted rental properties where flood insurance is required, new and renewal leases would be required to include acknowledgements signed by residents indicating that they have been advised that the property is in a floodplain and flood insurance is available for their personal property. Renters would also be informed of the location of ingress and egress or evacuation routes, available emergency notification resources, and emergency procedures for residents in the event of flooding. HUD encourages a proactive and systematic approach to notification requirements for floodplain risks to ensure that prospective buyers and renters are made aware of potential flood risk with sufficient warning so that they can make an informed decision considering their level of risk. The conveyance restrictions for the disposition of multifamily real property currently in 24 CFR 55.22 would be moved to a new 24 CFR 55.4 with minimal changes to reflect updated floodplain terminology.

E. Flood Insurance

In the current 24 CFR part 55 regulation, the National Flood Insurance Program (NFIP) is discussed primarily in the context of Flood Disaster Protection Act (FDPA) limitations on HUD program participation for properties in communities not participating in the NFIP or for previously Federally assisted properties where flood insurance is not maintained. Nevertheless, a much more frequently applicable FDPA requirement for HUD-assisted projects is that of the mandatory purchase of flood insurance within the Special Flood Hazard Area (SFHA) as designated by FEMA on the effective FIRM or FIS, and the NFIP plays an important role in minimization measures to reduce flood losses. To address these issues more comprehensively in the context of 24 CFR part 55 decisionmaking, all applicable flood insurance requirements would be consolidated and moved to a new section 55.5.

This section would also include new language clarifying that HUD or the responsible entity may require flood insurance beyond the minimums established in the FDPA or by a state, locality, Tribe, or this part when necessary to minimize financial risk. It also clarifies that mortgagees participating in a HUD assistance or mortgage insurance or guarantee program may impose additional flood insurance requirements. While nothing in this part requires flood insurance outside of the SFHA, HUD strongly encourages that flood insurance be obtained and maintained for all structures within the FFRMS floodplain to mitigate future financial losses. It may also be appropriate for high-value structures to maintain more flood insurance than is available under the NFIP: as of 2021, the maximum available building coverage through the NFIP is $250,000 for single-family structures of one-to-four units and $500,000 for multifamily structures with five or more housing units and commercial structures.[26] For example, for FHA multifamily programs, the MAP Guide provides for flood insurance in an amount at least equal to the greater of the maximum flood insurance available for that type of property under the NFIP or an amount equal to the replacement cost of the bottom two stories above grade.[27] For larger structures in more expensive areas, it may be necessary to obtain private flood insurance to insure up to the full replacement cost of the structure or risk catastrophic financial losses even with NFIP coverage.

F. Compliance

This proposed rule would create a new section on complying with the floodplain management and protection of wetlands regulations in a new § 55.6 that would outline the process HUD or the responsible entity must follow to determine whether compliance with these regulations is required, and whether the 8-step decisionmaking process is required, as well as whether the proposed action would require notification and flood insurance. This section would not create any new requirements, but it would provide a roadmap to complying with this part, to assist practitioners. It would also move a summary of documentation requirements from § 55.27 to § 55.6(d).

This proposed rule would also create new sections on limitations on HUD assistance in floodplains and wetlands in §§ 55.8 and 55.10. These sections would largely maintain existing restrictions from the current part 55, with some revisions and additions. For example, proposed § 55.8(b) would maintain the current requirement that all decisions be based on the latest available flood data provided by FEMA unless the current effective map indicates a higher flood risk than interim or preliminary sources.

Proposed § 55.8(c) would require that HUD or the responsible entity take measures to address repeat flood losses associated with structures identified by FEMA as Severe Repetitive Loss (SRL) properties,[28] in order for HUD assistance to be used in the proposed activity. When FEMA has approved improvements designed to prevent preventrepeated flood losses at the SRL property and communicated these to the property owner, completion of this FEMA-identified mitigation qualifies the structure to be listed as ''Mitigated''

[25] Proximity to flood control infrastructure can be identified through the U.S. Army Corps of Engineers' National Levee Database and National Inventory of Dams.

[26] See: FEMA Flood Insurance and the NFIP Fact Sheet, released June 14, 2021. Available at *https://www.fema.gov/fact-sheet/flood-insurance-and-nfip.*

[27] See Sec. 3.9.2.3 of the MAP Guide, available at Available at: *https://www.hud.gov/sites/dfiles/OCHCO/documents/4430GHSGG.pdf.* See also Form HUD–92329, available at: *https://www.hud.gov/sites/dfiles/OCHCO/documents/92329.pdf.* Per the NFIP definition, the grade level is defined as the lowest or highest finished ground level that is immediately adjacent to the walls of the building. Use natural (pre-construction), ground level, if available, for Zone AO and Zone A (without BFE).

[28] SRL properties would be defined following current FEMA standards. In its April 2020 NFIP Flood Insurance Manual, FEMA designates NFIP-insured single-family or multifamily residential buildings as SRL where:

1. The building has incurred flood-related damage for which four or more separate claims payments have been made, with the amount of each claim (including building and contents payments) exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

2. At least two separate claims payments (building payments only) have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the building.

In both instances, at least two of the claims must be within 10 years of each other, and claims made within 10 days of each other will be counted as one claim. In determining SRL status, FEMA considers the loss history since 1978, or from the building's construction if it was built after 1978, regardless of any changes in the ownership of the building. The term ''SRL property'' refers to either an SRL building or the contents within an SRL building, or both.

and may reduce the flood insurance premium of the SRL property. To ensure that the HUD substantial improvement, reconstruction, or new construction funding and HUD-required mitigation identified in the 8-step process deliver this benefit, HUD or the responsible entity would need to address FEMA identified SRL mitigation within Step 5 (minimization of impacts) of the 8-step process. The intent of this addition is to preserve lives and property, potentially reduce flood insurance costs, and ensure that HUD-identified mitigation aligns with that determined necessary by FEMA in order to avoid continued flood losses in properties that have experienced frequent flood losses.

G. Incidental Floodplain Exception

For purposes of defining when projects may proceed with onsite floodways, this proposed rule would remove floodways (as well as coastal high hazard areas and the LiMWA) from the existing incidental floodplain exception (currently at § 55.12(c)(7)) and replace it with a new § 55.8(a)(1), which would cover limitations on HUD assistance in floodways. This section would clarify that HUD assistance could be used in floodways in two circumstances:

1. Where an exception in § 55.12 excepts all proposed activities from compliance with part 55. This is not a change from HUD's existing regulations.

2. Where all structures and most improvements are removed from the floodway and a permanent covenant or comparable restriction would prevent future development or most new improvements in the floodway and/or wetland. This exception would combine aspects of the existing exceptions for floodplain restoration activities and incidental floodplains and would allow for limited improvements in the floodway, including functionally dependent uses, utility lines, de minimis improvements, and removal of existing structures or improvements.

This option would allow for a broader range of activities in the floodway than is permitted under the current incidental floodplain exception. However, it would require projects with onsite floodways to complete the 8-Step decisionmaking process in § 55.20 and determine that there are no practicable alternatives before approving any proposed activity that would modify or occupy the floodway.

This proposed rule would maintain a narrower version of the existing incidental floodplain exception as applied to the FFRMS floodplain (not including floodways, coastal high hazard areas, or within the LiMWA) in proposed § 55.12(g). This section would allow projects to proceed without completing the 8-Step decisionmaking process where an incidental portion of the project site includes the FFRMS floodplain.

H. Identifying Wetlands and Limitations on HUD Assistance in Wetlands

This proposed rule would add new sections discussing wetlands identification and HUD's limitations on work impacting wetlands to address questions HUD has received over the years from practitioners. New § 55.9, ''Identifying Wetlands,'' would build on the definition of ''wetland'' in § 55.2(b)(11) to clarify common areas of confusion and remove unnecessary procedural requirements. This section would revise HUD's current regulations to address limitations associated with exclusive use of the National Wetlands Inventory (NWI) for wetlands screening.[29] This rule would broaden the wetlands definition beyond NWI screening alone and would address the potential for data gaps or outdated information by requiring that HUD and responsible entities supplement the NWI with a visual observation of the property to assess wetlands indicators. Where these sources do not provide a conclusive answer, then practitioners may use one of three methods to determine the presence or absence of a wetland: (1) consultation with the U.S. Fish and Wildlife Service (FWS), which maintains the NWI, (2) reference to other Federal, state, and/or local resources and site analysis by the environmental review preparer, or (3) a wetlands evaluation prepared by a qualified wetlands scientist. This process would increase flexibility and avoid unnecessary consultation with FWS without increasing the risk that wetlands will not be accurately identified.[30]

Revised § 55.10, ''Limitations of HUD Assistance in Wetlands,'' would explicitly define the procedural requirements for projects with the potential to directly or indirectly impact on- or off-site wetlands. The current part 55 is subject to interpretation on these requirements, and these revisions are intended to codify and clarify existing policies on wetlands compliance without imposing new requirements.

I. Clarification and Revisions of Exceptions

This proposed rule would break down the exceptions in § 55.12(a)–(c) into three separate sections—§§ 55.12, 55.13, and 55.14—to improve overall clarity about the three distinct categories of excepted activities: those that are excluded from all compliance with part 55 (proposed § 55.12), those that must comply with the standards and limitations in part 55 such as prohibitions on activities in floodways but are not required to complete the 8-step process (proposed § 55.13), and those that may complete the modified 5-step decisionmaking process in lieu of the full 8-step process (proposed § 55.14). Beyond this reorganization, the proposed rule would make limited changes to the exceptions themselves.

1. Exceptions in Proposed § 55.12

Based on HUD experience and activities reflected in environmental review records for floodplain restoration projects, this proposed rule would seek to provide flexibility for floodplain-compatible parks and recreation uses routinely combined with floodplain and wetland restoration and preservation work. In a revised 24 CFR 55.12, ''Inapplicability of 24 CFR part 55 to certain categories of proposed actions,'' this proposed rule would expand on the existing exception for floodplain and wetland restoration and preservation activities to allow certain structures and improvements designed to be compatible with the beneficial floodplain or wetland function of a property.

Two exceptions would be removed under this proposed rule. The exception for sites where FEMA has issued a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) in the current § 55.12(c)(8) would be removed. HUD proposes to remove § 55.12(c)(8)(i) because a FEMA determination, through the LOMA/LOMR process, that a location is outside of the 1-percent-annual-chance floodplain or above base flood elevation is not intended to state whether the location is or is not within the FFRMS floodplain. HUD proposes to remove § 55.12(c)(8)(ii) on conditional LOMAs and conditional LOMRs, because this exception can incentivize adding fill in a floodplain in a manner that reduces floodplain function in adjoining areas by excepting such actions from compliance with part 55. HUD proposes to change that policy to disincentivize the use of sitewide fill and require completion of the 8-step process before adding fill to modify a floodplain. HUD also proposes to

[29] *https://www.fws.gov/program/national-wetlands-inventory.*

[30] This proposed approach is specific to HUD's regulations and differs from the United States Army Corps of Engineers (USACE) process for jurisdictional wetland determination identified in the USACE Wetland Delineation Manual.

remove § 55.12(c)(11) for projects related to ships and waterborne vessels because these are not activities that generally receive HUD funds, and practitioners have expressed confusion over its presence in the rule.

2. Exceptions in Proposed §§ 55.13 and 55.14

The proposed rule would make minimal changes to the activities currently listed in §§ 55.12(a) and (b), which must comply with the requirements in part 55 but which do not trigger the full 8-step process. Notably, it would add three new exceptions:

1. Proposed § 55.13(f), for special projects dedicated entirely to improving energy efficiency or installing renewable energy that do not meet the threshold for substantial improvement, would limit procedural hurdles to energy retrofit projects, which have limited potential to adversely affect floodplains or wetlands.

2. Proposed § 55.13(g) would provide an exception for the guarantee of Single-family mortgages under the Direct Guarantee procedure for the Section 184 Indian Housing loan guarantee program or the Section 184A Native Hawaiian Housing loan guarantee program.

3. Proposed § 55.14(e), for repairs, rehabilitation, or replacement of certain infrastructure with limited impact on impervious surface area, including streets, curbs, and gutters, would provide an exception for smaller scale infrastructure projects that is lacking from the current rule. This provision does not apply to critical actions, levee systems, chemical storage facilities (including any tanks), wastewater facilities, or sewer lagoons, all of which would require the 8-step process.

The proposed rule would also clarify the requirement currently listed in § 55.12(a)(3) and (4) that the footprint of the structure and paved areas is not significantly increased. Proposed § 55.14(c) and (d) would require that the footprint of the structure and paved areas is not increased by more than 20 percent.

J. 8-Step Decisionmaking Process

For actions that trigger the 8-step decisionmaking process in whole or in part, HUD is proposing a number of revisions to § 55.20 to implement FFRMS, clarify proper completion of each of the 8 steps, and otherwise modernize requirements. These revisions include:

1. Codifying roles and responsibilities in the 8-step process, which have been frequently misunderstood.

2. Editing for consistency with FFRMS and new sections on identification and limitations associated with the FFRMS floodplain and wetlands.

3. Adding an option to publish public notices in Steps 2 and 7 on an appropriate government website as an alternative to a printed news medium.

4. Inserting further clarifications and examples of required and suggested analysis.

5. Adding a requirement to coordinate the 8-step process with any public engagement process associated with environmental justice, where project planners are also engaging stakeholders in compliance with E.O. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' HUD intends to issue updated guidance on complying with E.O. 12898 prior to this proposed rule going into effect.

K. Elevation, Floodproofing, Minimization and Restoration

In addition to the revisions to § 55.20 described above, HUD would significantly expand step 5 in § 55.20(e) to implement FFRMS. Section 55.20(e) of the proposed rule would provide that, in addition to the current mitigation and risk reduction requirements, all new construction and substantial improvement actions in the FFRMS floodplain subject to the 8-step process must be elevated or, in certain cases, floodproofed above the FFRMS floodplain. If higher elevations, setbacks, or other floodplain management measures are required by State, Tribal, or locally adopted code or standards, HUD would require that those higher standards apply. The revised section would also provide more specific guidance on minimization and floodplain restoration measures, which are a key component of increasing flood resilience and must be considered in the 8-step process.

For non-critical actions that are non-residential structures or multifamily residential structures that have no residential dwelling units below the FFRMS floodplain, HUD is proposing in § 55.20(e)(1)(ii) that projects may, as an alternative to being elevated above the FFRMS floodplain, be designed and constructed such that, below the FFRMS floodplain, the structure is floodproofed. HUD would, except for changing ''base flood level'' to ''FFRMS floodplain,'' as defined in § 55.7, adopt FEMA's requirements for floodproofing as provided in FEMA's regulations at 44 CFR 60.3(c)(3)(ii) and 60.3(c)(4)(i). In summary, all new construction or substantial rehabilitation of non-residential and certain mixed-use structures within the FFRMS floodplain that are not elevated must be floodproofed consistent with the latest FEMA standards at or above the level of the FFRMS floodplain. This provision would permit owners of non-residential and certain mixed-use buildings to construct structures in a way that is less expensive than elevating but allows the buildings to withstand flooding, thus appropriately balancing property protection with costs and reflecting the lower risk to human life and safety in non-residential structures or parts of structures.

In the case of residential buildings, in § 55.20(e)(1), HUD would provide that the term ''lowest floor'' must be applied consistent with FEMA regulations in 44 CFR 59.1, FEMA's Elevation Certificate guidance, or FEMA's current guidance that establishes lowest floor. Proposed § 55.20(e)(2) identifies specific strategies that can reduce flood risk and loss of beneficial values of floodplains and wetlands, including green infrastructure, reconfiguration of the project footprint, and incorporation of resilient buildings standards. These strategies are based on floodplain and stormwater management best practices and HUD experience. Based on requests for technical assistance in this area, HUD believes the inclusion of recommended minimization measures will assist 8-step process decisionmakers.

The proposed rule would also add § 55.20(e)(3) to more clearly describe what is meant by restoration and preservation of wetlands or beneficial functions of the floodplain. Floodplain preservation is a concept that has been used in 24 CFR part 55 implementation historically but has been defined primarily through guidance, and this clarification is based on past practice and the successful incorporation of these measures in HUD-assisted projects.

Finally, the proposed rule would replace § 55.20(e)(3), which defines mitigation measures specific to critical actions, with proposed § 55.20(e)(4). This section would establish mandatory actions to plan ahead for residents' safety in multifamily residential properties as well as critical actions.

L. Processing for Existing Nonconforming Sites

This draft proposes a new § 55.21, ''Alternate processing for existing nonconforming sites,'' to address concerns about existing sites with onsite floodways. This section would create a special approval process for

improvements to existing HUD-assisted or HUD-insured properties with onsite floodways under the following circumstances:

1. HUD completes an 8-step process and environmental review pursuant to part 50 and mandates measures to reduce flood risk and ensure that there are no other environmental risks or hazards at the site,

2. Concrete measures will be taken to reduce flood risk and improve overall resilience at the site, including removing all residential units from the floodway, and

3. HUD determines that the HUD assistance cannot be practicably transferred to a safer site.

The purpose of this section is to establish a means of continuing HUD assistance or financing in exceptional circumstances to existing HUD-assisted or HUD-financed projects (*e.g.,* properties receiving assistance through Public Housing or Section 8 Project-based Rental Assistance or subject to a HUD-insured mortgage) that would otherwise be unable to comply with part 55 due to the presence of an on-site floodway. This section should be applied only in very rare cases and is not intended to eliminate the general prohibition on providing HUD assistance for projects within floodways. However, HUD recognizes that there are circumstances in which terminating HUD assistance would not improve residents' overall resilience or safety in the context of HUD's mission. In such cases, HUD will take a close look at the site and determine whether the best option to improve flood resilience would be financing improvements at the existing site or rejecting HUD assistance at the site. The Assistant Secretary for Community Planning and Development would have the authority to approve a project after HUD has met all of the conditions above.

M. Other Changes to Part 55

This proposed rule would make various other changes to part 55 to update terminology and references and would restructure part 55 for readability and accuracy. Additionally, this proposed rule would remove various provisions codified in part 55 that are outdated or underutilized.

HUD proposes removing § 55.24, ''Aggregation,'' as this provision is redundant with aggregation principles described more clearly in 24 CFR parts 50 and 58, which also apply to all projects processed under 24 CFR part 55.

The proposed rule would also remove current § 55.25, ''Areawide compliance.'' Areawide decisionmaking described in this section requires a complex notification process involving publications, and HUD has no record of the provision's use in a HUD-assisted activity since the inception of 24 CFR part 55. This provision is unnecessary, as HUD has well-established procedures for tiering of environmental review records that similarly facilitate compliance with part 55 across a geographic area without relying on § 55.25.

Instructions on documenting 24 CFR part 55 decisionmaking in the HUD environmental review record would be relocated from the end of the regulation in § 55.27 to § 55.6, where they would appear in context with general instructions on compliance with 24 CFR part 55 and a description of its structure. Additionally, HUD would revise the description of documentation requirements for consideration of alternatives to the proposed action to remove the requirement to compile a list of alternative properties in the local market, as this information may be unavailable for some project types or not relevant to consideration of viable alternatives to achieve the goals of the decisionmaking process within a given HUD program context.

HUD is proposing to remove § 55.28, which in concept provides relief from five of the eight steps in the wetlands decisionmaking process when a permit has been secured from the United States Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act for a proposed HUD-assisted construction activity in a jurisdictional wetland outside of the floodplain. HUD proposes to remove this section because practitioners have not historically found it useful, and part 55 already contains another section that would offer similar relief from the 8-step process where USACE (or any other agency) has already completed the 8-step process. Section 55.26, which would be retained with revisions in the proposed rule, allows HUD or responsible entities to adopt another agency or responsible entity's eight-step process under conditions that are less restrictive than those in § 55.28, and would apply to decisionmaking under E.O. 11988 or 11990 carried out by USACE.

N. Minimum Property Standards

This rule also proposes to apply a new elevation standard to one-to-four-family residential structures with mortgages insured by the FHA. Generally, in HUD's single-family mortgage insurance programs, Direct Endorsement mortgagees submit applications for mortgage insurance to HUD, and Lender Insurance mortgagees endorse loans for insurance, after the structure has been built. Thus, there is no HUD review or approval before the completion of construction. In these instances, HUD is not undertaking, financing, or assisting construction or improvements. Thus, the FHA single family mortgage insurance program is not subject to review under E.O. 11988, NEPA (42 U.S.C. 4321 *et seq.*), or related environmental laws or authorities. However, newly constructed single-family properties in HUD's mortgage insurance programs are generally required to meet HUD's Minimum Property Standards under 24 CFR 200.926 through 200.926e. These property standards require that when HUD insures a mortgage on a property, the property meets basic livability and safety standards and is code compliant. The section relating to construction in flood hazard areas, § 200.926d(c)(4), has long been included as a property standard.

In alignment with the proposals in this rulemaking that address FFRMS under E.O. 11988, HUD is also proposing to amend its Minimum Property Standards on site design, and specifically the standards addressing drainage and flood hazard exposure at § 200.926d(c)(4). The purpose of the amendment of the property standard is to decrease potential damage from floods, increase the safety and soundness of the property for residents, and provide for more resilient communities in flood hazard areas. HUD would revise the section by requiring the lowest floor (including basements and other permanent enclosures) of newly constructed and substantially improved structures, within the 1-percent-annual-chance floodplain, to be at least 2 feet above the base flood elevation as determined by best available information. For one- to four-unit housing under HUD mortgage insurance and low-rent public housing programs, HUD's Minimum Property Standards in 24 CFR part 200 currently require that a one- to four-unit property involving new construction, located in the 1 percent-annual-chance floodplain in the effective FIRM, be elevated to the effective FIRM base flood elevation. This proposed rule would add two feet of additional elevation to the base flood elevation as a resilience standard and would apply this standard to substantial improvement as well as new construction of such properties. This rule would not require consideration of the horizontally expanded FFRMS floodplain for single-family mortgage insurance projects governed by the

requirements in the Minimum Property Standards.

O. Categorical Exclusion

HUD also proposes to amend § 50.20(a)(2)(i) to revise the categorical exclusion from further environmental review under NEPA for minor rehabilitation of one- to four-unit residential properties. Specifically, HUD would remove the qualification that the footprint of the structure may not be increased in a floodplain or wetland when HUD performs the review. In 2013, HUD removed the footprint trigger from the corresponding categorical exclusion at § 58.35(a)(3)(i) for rehabilitations reviewed by responsible entities. This change will make the review standard the same regardless of whether HUD or a responsible entity is performing the review. Moreover, when HUD performs a review under 24 CFR part 50, the categorical exclusion in § 50.20(a)(3) applies to construction, but not rehabilitation, of up to four units in a floodplain or wetland as an individual action such that an environmental assessment or environmental impact statement is normally not required. Rehabilitated structures in a floodplain or wetland with an increased footprint currently require an environmental assessment or environmental impact statement. See § 50.20(a)(3)(iii). It is logically inconsistent to require a greater review for minor rehabilitations than new construction. Similarly, it is logically inconsistent to apply a higher level of review for HUD as opposed to grantees because the proposed actions would be the same regardless of review authority under 24 CFR part 50 or Part 58.

Actions under this proposed categorical exclusion would remain subject to E.O. 11988, E.O. 11990, and Part 55, and any impact resulting from an increased footprint in a floodplain or wetland would be fully addressed by the 8-step decisionmaking process in Part 55.

P. Permitting Online Posting

Finally, this proposed rule would update §§ 50.23, 58.43, 58.45, and 58.59 to allow public notices to be posted on an appropriate government website as an alternative to publication in local news media if the website is accessible to individuals with disabilities and provides meaningful access to individuals with Limited English Proficiency. This change would make parts 50 and 58 consistent with part 55, which would revise § 55.20 to allow public notices required as part of the 8-step process to be posted on a government website instead of a newspaper.

Q. Specific Questions for Comment

1. HUD invites comments on alternative approaches to define the FFRMS floodplain. Specifically, HUD seeks comments on whether to prioritize an alternative method among the three approaches to define the FFRMS floodplain, such as FVA as contemplated in the 2016 proposed rule, rather than CISA as discussed in this proposed rule.

2. HUD also invites comments on whether HUD should rely on the following alternative approach that HUD considered when developing this proposed rule: where CISA resources are not available, but the 0.2-percent-annual-chance floodplain has been mapped, the FFRMS floodplain for non-critical actions would be defined as either the 0.2-percent-annual-chance floodplain or the base flood elevation plus two feet of freeboard, whichever is lower. This alternative approach would reduce costs in the short term and the potential for overbuilding, but may result in higher flood risk and costs in the long term than the proposed approach of selecting the higher standard for non-critical actions.

3. HUD also invites comments on whether and under what circumstances it should rely on the FFRMS floodplain as defined by another Federal agency where that agency has already identified the FFRMS floodplain using the approach defined in their policies for a particular project. HUD requests comments on whether Part 55 should permit HUD or the responsible entity to rely on the FFRMS floodplain as defined by another Federal agency and, if so, under what circumstances this would be appropriate.

4. Additionally, HUD seeks comment on what factors or stakeholder needs HUD should consider when establishing an effective date for this rule and whether HUD should establish an extended effective date.

5. There may be instances in which the FVA elevation is more protective than the 0.2-percent-annual-chance elevation due to wave action in coastal areas. HUD invites comment on including the following exception for coastal areas where the 0.2-percent-annual-chance floodplain is used to define FFRMS due to the absence of CISA maps and analysis: where FVA is more protective than the 0.2-percent-annual-chance elevation due to wave action, HUD would require use of FVA to define the FFRMS and elevation requirements.

6. HUD recognizes the critical importance of this rule on the long-term viability of HUD's assisted and insured housing, but invites public comment on alternative measures that may help to promote the production and availability of affordable housing in the near-term while still promoting flood resilience.

7. In 2016, HUD proposed elevation standards for the FHA single family Minimum Property Standards (MPS) identical to those in this proposed rule. HUD invites comment as to whether the elevation standard should remain as proposed in this rule for FHA single family properties.

8. Finally, HUD invites comment on whether provisions of the proposed rule will redress, perpetuate, or create any disproportionate adverse impact against any group based on race, national origin, color, religion, sex, familial status, or disability as well as comments on how HUD can further incorporate equity considerations into this proposed rule to help HUD meet its affordable housing and community development mission.

R. Tribal Consultation

HUD's Government-to-Government Tribal Consultation Policy calls for consultation with Tribal Nations and Tribal Leaders early in the rulemaking process on matters that have Tribal implications. Accordingly, on June 10, 2021, HUD sent letters to all eligible funding recipients under NAHASDA and their tribally designated housing entities informing them of the nature of the forthcoming rule and soliciting comments. This letter announced a 30-day comment period and a webinar and conference call consultation session. On August 18, 2021, HUD sent a second letter with a 60-day comment period to review an early draft of the regulatory changes. During this period, HUD held an additional consultation session via webinar and conference call. This letter was posted on Codetalk, the HUD Office of Native American Programs' website, along with an early outline of the rule. During this draft review period, HUD received one written comment, suggesting that HUD explicitly recognize the right to Tribal self-governance in Part 55. HUD acknowledges the sovereignty of federally recognized American Indian and Alaska Native tribes and is committed to operate within a government-to-government relationship to allow tribes the maximum amount of responsibility for administering their housing programs. Tribes have the opportunity to comment on this proposed rule, and HUD welcomes further comment.

IV. Findings and Certifications

Regulatory Review—E.O. 12866 and E.O. 13563

Under E.O. 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. This rule was determined to be a ''significant regulatory action'' as defined in section 3(f) of E.O. 12866 (although not an economically significant regulatory action, as provided under section 3(f)(1) of the Executive Order).

As discussed in this preamble, the proposed regulatory amendments would, based on E.O. 13690 and the Guidelines, require, as part of the decisionmaking process established to ensure compliance with E.O. 11988 (Floodplain Management), that new construction or substantial improvement in a floodplain be elevated above the FFRMS floodplain or floodproofed. These amendments would also provide a process for determining the FFRMS Floodplain that would establish a preference for the climate-informed science approach (CISA). It would also revise HUD regulations in various other ways, including permitting HUD assistance to be used for a broader range of reasonable activities in floodways, and would allow improvements beyond maintenance at sites with onsite floodplains in exceptional circumstances, after completion of the 8-step process. This proposed rule would also revise HUD's Minimum Property Standards for one-to-four-unit housing to require that the lowest floor in newly constructed and substantially improved structures located within the 1-percent-annual-chance floodplain be built at least 2 feet above the base flood elevation. This rule also proposes to revise a categorical exclusion available when HUD performs the environmental review by making it consistent with changes to a similar categorical exclusion that is available to HUD grantees or other responsible entities when they perform the environmental review. Other changes would clarify, streamline, and update HUD's regulations.

The rule is part of HUD's commitment under HUD's Climate Action Plan. Building to the standards discussed in this proposed rule would increase resiliency, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk that takes into account possible sea level rise and increased development associated with population growth.

Regulatory Impact Analysis

Elevating HUD-assisted structures located in and around the FFRMS floodplain will lessen damage caused by flooding and avoid relocation costs to tenants associated with temporary moves when HUD-assisted structures sustain flood damage and are temporarily uninhabitable. These benefits, which are realized throughout the life of HUD-assisted structures, are offset by the one-time increase in construction costs, borne only at the time of construction.

In addition, the likelihood that floods in coastal areas will become more frequent and damaging due to rising sea levels in future decades necessitates a stricter standard than the one currently in place. According to NOAA, sea level along the contiguous U.S. coastline is expected to rise, on average, 10 to 12 inches (0.25 to 0.30 meters) over the next 30 years (2020 to 2050).[31] The Intergovernmental Panel on Climate Change (2019) also confirms that the sea level will continue rising throughout the 21st century.[32]

As discussed in the regulatory impact analysis (RIA) that accompanies this rule, HUD estimates that requiring developers to construct or floodproof HUD-funded or insured properties to two feet above base flood elevation for single-family homes and above the CISA floodplain for multifamily properties will increase construction costs by $5.157 million to $107.294 million per annual cohort. These are one-time costs which occur at the time of construction. Benefits of the increased standard include avoided damage to buildings, as measured by decreased insurance premiums, and avoided costs associated with homeowners and tenants being displaced. These benefits occur annually over the life of the structures. Over a 40-year period, HUD estimates the NPV of aggregate benefits will total $64.908 million to $356.584 million.

These estimates are based on the annual production and rehabilitation of HUD-assisted and insured structures in the floodplain and accounts for the 40 states (in addition to the District of Columbia and Puerto Rico) with existing freeboard requirements. The cost of compliance and expected benefits are lower in these states than in states that have no minimum elevation requirements above base flood elevation. HUD's analysis does not consider benefits due to further coastal sea level or riverine rise. Further increases in sea level rise or inland and riverine flooding would increase the benefits of this rule. For a complete description of HUD's analysis, please see the accompanying RIA for this rule on *regulations.gov*.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities.

With respect to all entities, including small entities, it is unlikely that the economic impact would be significant. As the RIA explains, the benefits of reduced damage offset the construction costs. Further, small entities may benefit more since they are less likely to be able to endure financial hardships caused by severe flooding.

Based on an engineering study conducted for FEMA,[33] the construction cost of increasing the elevation of the base of a new residential structure two

[31] Sweet, W.V., B.D. Hamlington, R.E. Kopp, C.P. Weaver, P.L. Barnard, D. Bekaert, W. Brooks, M. Craghan, G. Dusek, T. Frederikse, G. Garner, A.S. Genz, J.P. Krasting, E. Larour, D. Marcy, J.J. Marra, J. Obeysekera, M. Osler, M. Pendleton, D. Roman, L. Schmied, W. Veatch, K.D. White, and C. Zuzak, 2022: Global and Regional Sea Level Rise Scenarios for the United States: Updated Mean Projections and Extreme Water Level Probabilities Along U.S. Coastlines. NOAA Technical Report NOS 01. National Oceanic and Atmospheric Administration, National Ocean Service, Silver Spring, MD, 111 pp. *https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html.*

[32] IPCC, 2019: Summary for Policymakers. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, DC Roberts, V. Masson-Delmotte, P. Zhai, M. Tignor, E. Poloczanska, K. Mintenbeck, A. Alegría, M. Nicolai, A. Okem, J. Petzold, B. Rama, N.M. Weyer (eds.)]. In press.

[33] See Federal Emergency Management Agency. 2013. ''2008 Supplement to the 2006 Evaluation of the National Flood Insurance Program's Building Standards''.

additional feet of vertical elevation varies from 0.3 percent to 4.8 percent of the base building cost. This results in an increase of up to $7,834 per single family home and $4,772 per unit in a multi-family property located in states with no existing freeboard requirements. Consequently, this would not pose a significant burden to small entities in the single family housing development industry.

These costs are likely higher than would actually be caused by the increased standard because most HUD-assisted or insured substantial improvement projects already involve elevation to comply with the current standard, elevation to the base flood elevation (base flood elevation+0). Thus, elevating a structure an additional two feet would be marginal compared to the initial cost of elevation to the floodplain level.

For this reason, the undersigned certifies that there is no significant economic impact on small entities. Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that would meet HUD's program responsibilities.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact will be available for review in the docket for this rule on *Regulations.gov.*

Federalism Impact

E.O. 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Order. This rule does not have federalism implications and would not impose substantial direct compliance costs on state and local governments nor preempts state law within the meaning of the Order.

Unfunded Mandates Reform Act

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

Paperwork Reduction Act

The information collection requirements contained in this rule were reviewed by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2506–0151. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

List of Subjects

24 CFR Part 50

Environmental impact statements.

24 CFR Part 55

Environmental impact statements, Floodplains, Wetlands.

24 CFR Part 58

Community development block grants, Environmental impact statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons stated in the preamble above, HUD proposes to amend 24 CFR parts 50, 55, 58, and 200 as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

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

Authority: 42 U.S.C. 3535(d) and 4321–4335; and Executive Order 11991, 3 CFR, 1977 Comp., p. 123.

§ 50.4 [Amended]

■ 2. Amend § 50.4(b)(2) by removing ''(3 CFR, 1977 Comp., p. 117)'' and replacing it with ''as amended by Executive Order 13690, February 4, 2015 (80 FR 6425), (3 CFR, 2015 Comp., p. 6425).''

■ 3. Revise § 50.20(a)(2)(i) to read as follows:

§ 50.20 Categorical exclusions subject to the Federal laws and authorities cited in § 50.4.

(a) * * *

(2) * * *

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;

* * * * *

§ 50.23 [Amended].

■ 4. In § 50.23(c), remove the comma after ''printed news medium,'' then add ''or on an appropriate government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency'' after ''printed news medium''.

PART 55—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

■ 5. The authority citation for part 55 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 4001–4128 and 5154a; E.O. 13690, 80 FR 6425, E.O. 11988, FR 26951, 3 CFR, 1977 Comp., p. 117; E.O. 11990, 42 FR 26961, 3 CFR, 1977 Comp., p 121.

■ 6. Amend § 55.1 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a)(1), add '', as amended,'' after Floodplain Management'';

■ c. Revise paragraph (a)(3);

■ d. Remove paragraphs (a)(4) and (a)(5);

■ e. Remove and reserve paragraph (b); and

■ f. Remove paragraph (c).

The revisions and additions read as follows:

§ 55.1 Purpose.

(a) * * *

(3) This part implements the requirements of Executive Order 11988, Floodplain Management, as amended, and Executive Order 11990, Protection of Wetlands, and employs the principles of the Unified National Program for Floodplain Management. These regulations apply to all proposed actions for which approval is required, either from HUD (under any applicable HUD program) or from a recipient (under programs subject to 24 CFR part 58), that are subject to potential harm by location in floodplains or wetlands. Covered actions include acquisition, construction, demolition, improvement, disposition, financing, and use of properties located in floodplains or wetlands.

(b) [Reserved].

■ 7. Amend § 55.2 as follows:

a. In paragraph (a), remove ''Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030, February 10, 1978)'' and add in its place ''Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (80 FR 64008, October 22, 2015) (Water Resources Council Interagency Guidelines)'';

■ b. Revise paragraphs (b)(1) and (b)(3)(i)(B);

■ c. Remove and reserve paragraph (b)(3)(ii);

■ d. Redesignate paragraphs (b)(4) to (b)(7) as paragraphs (b)(5) to (b)(8), respectively, add new paragraph (b)(4); revise redesignated paragraph (b)(5); redesignate paragraphs (b)(9) to (b)(11) as paragraphs (b)(11) to (b)(13), add new paragraphs (b)(9) and (b)(10) and revise redesignated paragraphs (b)(11) and (b)(13); and

■ e. Remove ''§ 55.2(b)(1)'' from newly redesignated paragraph (b)(6) and add in its place ''§ 55.8(b)''.

The revisions and additions read as follows:

§ 55.2 Terminology.

* * * * *

(b) * * *

(1) *Coastal high hazard area* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) under FEMA regulations, or according to best available information. (See, § 55.8(b) for appropriate data sources.)

* * * * *

(3) * * *

(i) * * *

(B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (*e.g.,* community stormwater management infrastructure, water treatment plants, data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or

* * * * *

(ii) [Reserved]

(4) *Federal Flood Risk Management Standard (FFRMS) floodplain* means the floodplain as defined by Executive Order 13690 and Water Resources Council Interagency Guidelines and further described as applied to HUD-assisted activities by § 55.7 of this part.

(5) *0.2-percent-annual-chance (500-year) floodplain* means the area, including the base flood elevation, subject to inundation from a flood having a 0.2 percent chance or greater of being equaled or exceeded in any given year. (See § 55.8(b) for appropriate data sources).

* * * * *

(9) *Impervious surface area* means an improved surface that measurably reduces the rate of water infiltration below the rate that would otherwise be provided by the soil present in a location prior to improvement, based on the soil type identified either by the Natural Resource Conservation Service Soil Survey or geotechnical study. Impervious surfaces include, but are not limited to, unperforated concrete or asphalt ground cover, unvegetated roofing materials, and other similar treatments that impede infiltration.

(10) *Limit of Moderate Wave Action (LiMWA)* means the inland limit of the portion of coastal Zone AE where wave heights can be between 1.5 and 3 feet during a base flood event, subjecting properties to damage from waves and storm surge. (See, § 55.8(b) for appropriate data sources).

(11) *1-percent-annual-chance (100-year) floodplain* means the area subject to inundation from a flood having a one percent or greater chance of being equaled or exceeded in any given year. (See § 55.8(b) for appropriate data sources).

* * * * *

(13) *Wetlands* means those areas that are inundated or saturated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, river overflows, mud flats, and natural ponds. This definition includes those wetland areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid fill road beds and activities such as mineral extraction and navigation improvements. This definition includes both wetlands subject to and those not subject to section 404 of the Clean Water Act as well as constructed wetlands. It does not include ponds that do not conform to the definition above, or deep-water aquatic habitats such as streams, creeks, and rivers. (See § 55.9 for appropriate data sources).

■ 8. Amend § 55.3 as follows:

■ a. Redesignate paragraphs (a) through (d) as (b) through (e);

■ b. Revise newly redesignated paragraphs (c)(1), (c)(4), (d), and (e);

■ c. Remove the word ''technical'' from newly redesignated paragraph (c)(3); and

■ d. Add new paragraphs (a) and (f).

The revisions and additions read as follows:

§ 55.3 Assignment of responsibilities.

(a) The implementation of Executive Orders 11988 and 11990 under this part shall be conducted by HUD for Department-administered programs subject to environmental review under 24 CFR part 50 and by authorized responsible entities that are responsible for environmental review under 24 CFR part 58.

* * * * *

(c) * * *

(1) Ensure compliance with this part for all actions under their jurisdiction that are proposed to be conducted, supported, or permitted in a floodplain or wetland, including taking full responsibility for all decisions made under their jurisdiction that are made pursuant to § 55.20 for environmental reviews completed pursuant to 24 CFR part 50;

* * * * *

(4) Incorporate in departmental regulations, handbooks, and project and site standards those criteria, standards, and procedures related to compliance with this part.

(d) *Responsible Entity Certifying Officer.* Certifying Officers of responsible entities administering or reviewing activities subject to 24 CFR part 58 shall comply with this part in carrying out HUD-assisted programs. Certifying Officers shall monitor approved actions and ensure that any prescribed mitigation is implemented.

(e) *Grantees and Applicants.* Grantees and Applicants that are not acting as responsible entities shall:

(1) Supply HUD (or the responsible entity authorized by 24 CFR part 58) with all available, relevant information necessary for HUD (or the responsible entity) to perform the compliance required by this part, including environmental review record documentation described in 24 CFR 58.38, as applicable;

(2) Implement mitigating measures required by HUD (or the responsible entity authorized by 24 CFR part 58) under this part or select alternate eligible property; and

(3) Monitor approved actions and ensure that any prescribed mitigation is implemented.

(f) *Third party providers.* Consultants and other parties to the environmental review process may prepare maps, studies (*e.g.,* hydraulic and hydrologic studies), and reports to support compliance with this part, including identification of floodplains and wetlands and development of alternatives or minimization measures. The following responsibilities, however, may not be delegated to the third-party provider:

(1) Receipt of public or agency comments;

(2) Selection or rejection of alternatives analyzed in Step 3 of the 8-Step Process;

(3) Selection or rejection of minimization measures analyzed in Step 5 of the 8-Step Process;

(4) Determination whether avoidance of floodplain or wetland impacts, according to the purpose of Executive Orders 11988 and 11990, is or is not practicable.

■ 9. Add § 55.4 to subpart A to read as follows:

§ 55.4 Notification of floodplain hazard.

(a) *Notification for property owners, buyers, and developers.* For actions in the FFRMS floodplain (as defined in § 55.7), HUD (or HUD's designee) or the responsible entity must ensure that any party participating in the transaction is notified that the property is in the FFRMS floodplain and whether flood insurance is required or available in this location. Notification shall also include a description of the approximate elevation of the FFRMS floodplain, proximity to flood-related infrastructure impacting the site including dams and levees, the location of ingress and egress or evacuation routes relative to the FFRMS floodplain, disclosure of information on flood insurance claims filed on the property to the extent available from FEMA, and other relevant information such as available emergency notification resources.

(b) *Renter notification.* For HUD-assisted and HUD-insured rental properties within the FFRMS floodplain, new and renewal leases must include acknowledgements signed by residents indicating that they have been advised that the property is in a floodplain and flood insurance is available for their personal property. Notification shall also include the location of ingress and egress routes relative to the FFRMS floodplain, available emergency notification resources, and the property's emergency procedures for residents in the event of flooding.

(c) *Conveyance restrictions for the disposition of multifamily real property.* (1) In the disposition (including leasing) of multifamily properties acquired by HUD that are located in the FFRMS floodplain, the documents used for the conveyance must:

(i) Refer to those uses that are restricted under identified Federal, State, or local floodplain regulations; and

(ii) Include any land use restrictions limiting the use of the property by a grantee or purchaser and any successors under state or local laws.

(2) (i) For disposition of multifamily properties acquired by HUD that are located in the FFRMS floodplain and contain critical actions, HUD shall, as a condition of approval of the disposition, require by covenant or comparable restriction on the property's use that the property owner and successive owners provide written notification to each current and prospective tenant concerning:

(A) The hazards to life and to property for those persons who reside or work in a structure located within the FFRMS floodplain, and

(B) The availability of flood insurance on the contents of their dwelling unit or business.

(ii) The notice shall also be posted in the building so that it will be legible at all times and easily visible to all persons entering or using the building.

■ 10. Add § 55.5 to subpart A to read as follows:

§ 55.5 Flood insurance.

(a)(1) As required by section 102(a) of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a), when HUD financial assistance (including mortgage insurance) is proposed for acquisition or construction purposes in any special flood hazard area (as designated by the Federal Emergency Management Agency (FEMA) on an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS), structures for which HUD financial assistance is provided must be covered by flood insurance in an amount at least equal to the project cost less estimated land cost, the outstanding principal balance of any HUD-assisted or HUD-insured loan, or the maximum limit of coverage available under the National Flood Insurance Program, whichever is least. Under section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), such proposed assistance in any special flood hazard area shall not be approved in communities identified by FEMA as eligible for flood insurance but which are not participating in the National Flood Insurance Program. This prohibition only applies to proposed HUD financial assistance in a FEMA-designated special flood hazard area one year after the community has been formally notified by FEMA of the designation of the affected area. This requirement is not applicable to HUD financial assistance in the form of formula grants to states, including financial assistance under the State-administered CDBG Program (24 CFR part 570, subpart I) and, Emergency Solutions Grant amounts allocated to States (24 CFR part 576), and HOME funds provided to a state under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701–12839). HUD strongly encourages that flood insurance be obtained and maintained for all HUD-assisted structures in the FFRMS floodplain, sites that have previously flooded, or sites in close proximity to a floodplain.

(2) Under section 582 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 5154a), HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration of damage to any personal, residential, or commercial property if:

(i) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(ii) The person failed to obtain and maintain the flood insurance.

(b) HUD or the responsible entity may impose flood insurance requirements that exceed the minimums established by the Flood Disaster Protection Act of 1973 or by Tribal, state, or local requirements when needed to minimize financial risk from flood hazards. HUD and responsible entities have discretion to require that flood insurance be maintained for structures outside of the FEMA-mapped floodplain but within the FFRMS floodplain and/or that structures be insured up to the full replacement cost of the structure when needed to minimize financial risk from flood hazards. Nothing in this part limits additional flood insurance requirements that may be imposed by a mortgagee participating in a HUD assistance or mortgage insurance or guarantee program.

■ 11. Add § 55.6 to subpart A to read as follows:

§ 55.6 Complying with this part.

(a) *Process.* The process to comply with this part is as follows:

(1) HUD or the responsible entity shall determine whether compliance with this part is required. Refer to § 55.12 for a list of activities that do not require further compliance with this part beyond the provisions of paragraph (c) of this section.

(2) HUD or the responsible entity shall refer to § 55.8 to determine whether the proposed action is eligible for HUD assistance or if it must be rejected as proposed.

(3) If the project requires compliance under this part and is not prohibited by § 55.8, HUD or the responsible entity shall refer to § 55.13 to determine whether the 8-step decisionmaking process is required. If an exception in that section applies, the proposed project may proceed without further analysis under this part.

(4) HUD or the responsible entity shall refer to § 55.10 to determine whether an 8-step decisionmaking process for wetland protection is required or whether best practices to minimize potential indirect impacts to wetlands should be pursued.

(5) HUD or the responsible entity shall determine whether an exception applies that would allow them to complete an abbreviated decisionmaking process pursuant to § 55.14.

(6) HUD or the responsible entity shall follow the decisionmaking process described in § 55.20, eliminating any steps as permitted under § 55.14.

(b) *Decisionmaking.* HUD or the responsible entity shall determine whether to approve the action as proposed, approve the action with modifications or at an alternative site, or reject the proposed action, based on its analysis of the proposed risks and impacts. HUD or the responsible entity has discretion to reject any project where it determines that the level of flood hazard is incompatible with the proposed use of the site or that the extent of impacts to wetlands or to the beneficial function of floodplains is not acceptable, regardless of whether it would otherwise be acceptable under this part.

(c) *Other requirements.* Refer to §§ 55.4 and 55.5 to determine whether the proposed action may require notifications and/or flood insurance. Actions that do not require full compliance under this part may still trigger notification and flood insurance requirements.

(d) *Documentation.* HUD or responsible shall require that all of the analysis required under this part, including applicable exceptions and all required steps described in § 55.20, be documented in the environmental review record.

Subpart B—Application of Executive Orders on Floodplain Management and Protection of Wetlands

■ 12. Add § 55.7 to subpart B to read as follows:

§ 55.7 Identifying the FFRMS floodplain.

(a) HUD or the responsible entity shall determine all compliance with the floodplain review requirements of this part based on the FFRMS floodplain.

(b) For a non-critical action, HUD or the responsible entity shall define the FFRMS floodplain using the following process:

(1) If HUD-approved maps of the jurisdiction have been developed using a climate-informed science approach (CISA), those areas designated as having an elevated flood risk during the anticipated life of the project; or

(2) If CISA data as described above is not available but FEMA has defined the 0.2-percent-annual-chance floodplain, those areas that FEMA has designated as within the 0.2-percent-annual-chance floodplain; or

(3) If neither CISA nor FEMA-mapped 0.2-percent-annual-chance floodplain data is available, those areas that result from adding an additional two feet to the base flood elevation as established by the effective FIRM or FIS or—if available—FEMA-provided preliminary or pending maps or studies or advisory base flood elevations.

(4) The latest of these resources shall be used. However, a base flood elevation based on CISA data or an interim or preliminary FEMA map cannot be used if it is lower than the base flood elevation on the current FIRM or FIS.

(c) For a critical action, the FFRMS floodplain is either:

(1) If HUD-approved CISA maps of the jurisdiction have been developed, those areas designated as having an elevated flood risk—as determined based on the criticality of the action—during the anticipated life of the project; or

(2) If CISA data as described above is not available, an area either within the 0.2-percent-annual-chance floodplain or within the area that results from adding an additional three feet to the base flood elevation. The larger floodplain and higher elevation must be applied where the 500-year floodplain is mapped. If FEMA resources do not map the 0.2-percent-annual-chance floodplain, the FFRMS floodplain is the area that results from adding an additional three feet to the base flood elevation based on best available information.

(d) If FEMA FIRMS, FIS, preliminary maps or advisory base flood elevations are unavailable or insufficiently detailed to determine base flood elevation and if CISA data is not available, other Federal, Tribal, State, or local data shall be used as ''best available information.'' If best available information is based only on past flooding and does not consider future flood risk:

(1) For non-critical actions, the FFRMS floodplain includes those areas that result from adding an additional two feet to the 1-base flood elevation based on best available information.

(2) For critical actions, the FFRMS floodplain is the higher of the 0.2-percent-annual-chance floodplain based on best available information or areas that result from adding an additional three feet to the base flood elevation based on best available information.

(e) When preparing an Environmental Impact Statement (EIS), an analysis of the best available, actionable climate science, as determined by HUD or the responsible entity, must be performed to define the FFRMS floodplain. These sources may supplement the FIRM or ABFE in order to better minimize impacts to projects or to elevate or floodproof structures above the risk adjusted floodplain. These sources may not be used as a basis for a lower elevation than otherwise required under this part.

(f) Nothing in this part limits the voluntary use of CISA, where available, by responsible entities to define the FFRMS floodplain on a project-specific basis where HUD-approved jurisdictional maps are not available; however, this approach may not be used as a basis for a lower elevation than otherwise required under this section.

■ 13. Add § 55.8 to subpart B read as follows:

§ 55.8 Limitations on HUD assistance in floodplains.

(a) HUD financial assistance (including mortgage insurance) may not be approved with respect to:

(1) Any action located in a floodway unless one of the following applies:

(i) An exception listed in § 55.12 applies; or

(ii) A permanent covenant or comparable restriction will preserve all onsite FFRMS floodplain and/or wetland areas from future development or improvements beyond maintenance of existing uses listed in paragraphs (A) through (C) below and the proposed project site contains no buildings or improvements that modify or occupy the floodway, except that the presence of the following will not prohibit the approval of HUD financial assistance:

(A) Functionally dependent uses (as defined in § 55.2(b)(7)) and utility lines;

(B) De minimis improvements (such as landscaping improvements, sports courts, or trails), including minimal ground disturbance or placement of impervious surface area to ensure accessibility where this is permitted by local ordinances and does not increase flood risk to the property; or

(C) Buildings and improvements that will be removed as part of the proposed action.

(2) Any critical action located in a floodway, coastal high hazard area or LiMWA; or

(3) Any noncritical action located in a coastal high hazard area, or LiMWA, unless the action is a functionally dependent use, is limited to existing structures or improvements, or is reconstruction following destruction caused by a disaster. If the action is not a functionally dependent use, the action must be designed for location in a coastal high hazard area. An action will be considered designed for a coastal high hazard area if:

(i) In the case of reconstruction following destruction caused by a disaster, or substantial improvement, the work meets the current standards for V zones in FEMA regulations (44 CFR 60.3(e)) and, if applicable, the Minimum Property Standards for such construction in 24 CFR 200.926d(c)(4)(iii); or

(ii) In the case of existing construction (including any minor improvements that are not substantial improvement):

(A) The work met FEMA elevation and construction standards for a coastal high hazard area (or if such a zone or such standards were not designated, the 1-percent-annual-chance floodplain) applicable at the time the original improvements were constructed; or

(B) If the original improvements were constructed before FEMA standards for the 1-percent-annual-chance floodplain became effective or before FEMA designated the location of the action as within the 1-percent-annual-chance floodplain, the work would meet at least the earliest FEMA standards for construction in the 1-percent-annual-chance floodplain.

(b) All determinations made pursuant to this section shall be based on the effective FIRM or FIS unless FEMA has provided more current information. When FEMA provides interim flood hazard data, such as ABFE or preliminary maps and studies, HUD or the responsible entity shall use the latest of these sources. However, a base flood elevation from an interim or preliminary source cannot be used if it is lower than the base flood elevation on the current FIRM and FIS.

(c) Where HUD assistance is proposed for actions subject to § 55.20 on structures designated by FEMA as Severe Repetitive Loss (SRL) properties, and FEMA has approved measures that if implemented would qualify the property for a status of ''Mitigated'' as to the SRL list, HUD or the responsible entity will ensure that FEMA-identified mitigation measures are addressed under § 55.20(e).

■ 14. Add § 55.9 to subpart B to read as follows:

§ 55.9 Identifying wetlands.

The following process shall be followed in making the wetlands determination:

(a) HUD or the responsible entity shall determine whether the action involves new construction that is located in a wetland.

(b) As primary screening, HUD or the responsible entity shall verify whether the project area is located in proximity to wetlands identified on the National Wetlands Inventory (NWI) and assess the site for visual indication of the presence of wetlands such as hydrology (water), hydric soils, or wetland vegetation. Where the primary screening is inconclusive, potential wetlands should be further evaluated using one or more of the following methods:

(i) Consultation with the Department of the Interior, Fish and Wildlife Service (FWS), for information concerning the location, boundaries, scale, and classification of wetlands within the area.

(ii) Reference to the Department of Agriculture, Natural Resources Conservation Service (NRCS) National Soil Survey (NSS), and any Tribal, State, or local information concerning the location, boundaries, scale, and classification of wetlands within the action area and further site study by the environmental review preparer with reference to Federal guidance on field identification of the biological (rather than jurisdictional) characteristics of wetlands.

(iii) Evaluation by a qualified wetlands scientist to delineate the wetland boundaries on site.

■ 15. Revise § 55.10 to read as follows:

§ 55.10 Limitations on HUD assistance in wetlands.

(a) When the proposed project includes new construction activities (including grading, clearing, draining, filling, diking, and impounding) that will have a direct impact to onsite wetlands identified by the process described in § 55.9, compliance with this part requires completion of the 8-step process in § 55.20 to address wetland impacts.

(b) When the proposed project may indirectly affect wetlands by modifying the flow of stormwater, releasing pollutants, or otherwise changing conditions that contribute to wetlands viability, the significance of these impacts must be evaluated and minimized through best management practices. If the project site includes wetlands that will not be impacted by new construction, HUD strongly encourages measures to preserve such wetlands from future impacts, including by obtaining a restrictive covenant, conservation easement, or other mechanism.

(c) When the proposed project may indirectly affect off-site wetlands, impacts should be minimized to the extent practicable. While this part does not require further decisionmaking to address these effects under the authority of Executive Order 11990, measures to address offsite wetlands impacts may be necessary to comply with related laws and authorities including the Endangered Species Act or to address significant impacts under the National Environmental Policy Act.

§ 55.11 [Removed and Reserved]

■ 16. Remove and reserve § 55.11.

■ 17. Revise § 55.12 to read as follows:

§ 55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

With the exception of the flood insurance requirements in § 55.5, this part shall not apply to the following categories of proposed HUD actions:

(a) HUD-assisted activities described in 24 CFR 58.34 and 58.35(b);

(b) HUD-assisted activities described in 24 CFR 50.19, except as otherwise indicated in § 50.19;

(c) The approval of financial assistance for restoring and preserving the natural and beneficial functions and values of floodplains and wetlands, including through acquisition of such floodplain and wetland property, where a permanent covenant or comparable restriction is placed on the property's continued use for flood control, wetland protection, open space, or park land, but only if:

(1) The property is cleared of all existing buildings and walled structures; and

(2) The property is cleared of related improvements except those which:

(i) Are directly related to flood control, wetland protection, open space, or park land (including playgrounds and recreation areas);

(ii) Do not modify existing wetland areas or involve fill, paving, or other ground disturbance beyond minimal trails or paths; and

(iii) Are designed to be compatible with the beneficial floodplain or wetland function of the property.

(d) An action involving a repossession, receivership, foreclosure, or similar acquisition of property to protect or enforce HUD's financial interests under previously approved loans, grants, mortgage insurance, or other HUD assistance;

(e) Policy-level actions described at 24 CFR 50.16 that do not involve site-based decisions;

(f) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland;

(g) HUD's or the responsible entity's approval of a project site, an incidental portion of which is situated in the FFRMS floodplain (not including the floodway, LiMWA, or coastal high hazard area), but only if:

(1) The proposed project site does not include any existing or proposed buildings or improvements that modify or occupy the FFRMS floodplain except de minimis improvements such as recreation areas and trails;

(2) The proposed project will not result in any new construction in or modifications of a wetland; and

(3) A permanent covenant or comparable restriction will prevent all future development or improvements in the onsite FFRMS floodplain and/or wetland areas.

(h) Issuance or use of Housing Vouchers or other forms of rental subsidy where HUD, the awarding community, or the public housing agency that administers the contract awards rental subsidies that are not project-based (*i.e.,* do not involve site-specific subsidies);

(i) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities.

■ 18. Add § 55.13 to subpart B to read as follows:

§ 55.13 Inapplicability of 8-step decisionmaking process to certain categories of proposed actions.

The decisionmaking process in § 55.20 shall not apply to the following categories of proposed actions:

(a) HUD's mortgage insurance actions and other financial assistance for the purchasing, mortgaging, or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the NFIP and in good standing (*i.e.,* not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway, coastal high hazard area, or LiMWA;

(b) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for ''substantial improvement'' under § 55.2(b)(12);

(c) HUD or a recipient's actions involving the disposition of individual HUD or recipient held, one- to four-family properties;

(d) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573), where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance;

(e) The approval of financial assistance to lease units within an existing structure located within the floodplain, but only if;

(1) The structure is located outside the floodway or coastal high hazard area, and is in a community that is in the Regular Program of the NFIP and in good standing (*i.e.,* not suspended from program eligibility or placed on probation under 44 CFR 59.24); and

(2) The project is not a critical action.

(f) Special projects for the purpose of improving efficiency of utilities or installing renewable energy that involve the repair, rehabilitation, modernization, weatherization, or improvement of existing structures or infrastructure, do not meet the thresholds for ''substantial improvement'' under § 55.2(b)(12), and do not include the installation of equipment below the FFRMS floodplain elevation; and

(g) The guarantee of one-to-four family mortgages under the Direct Guarantee procedure for the Section 184 Indian Housing loan guarantee program or the Section 184A Native Hawaiian Housing loan guarantee program.

■ 19. Add § 55.14 to subpart B to read as follows:

§ 55.14 Modified 5-step decisionmaking process for certain categories of proposed actions.

The decisionmaking steps in § 55.20(b), (c), and (g) (steps 2, 3, and 7) do not apply to the following categories of proposed actions:

(a) HUD's or the recipient's actions involving the disposition of acquired multifamily housing projects or ''bulk sales'' of HUD-acquired (or under part 58 of recipients') one- to four-family properties in communities that are in the Regular Program of the NFIP and in good standing (*i.e.,* not suspended from program eligibility or placed on probation under 44 CFR 59.24). For programs subject to part 58, this paragraph applies only to recipients' disposition activities that are subject to review under part 58.

(b) HUD's actions under the National Housing Act (12 U.S.C. 1701 *et seq.*) for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.

(c) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, the action does not meet the thresholds for ''substantial improvement'' under § 55.2(b)(12), and the footprint of the structure and paved areas is not increased by more than 20 percent.

(d) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the action does not meet the thresholds for ''substantial improvement'' under § 55.2(b)(12) and that the footprint of the structure and paved areas is not increased by more than 20 percent.

(e) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, or replacement of existing nonstructural improvements including streets, curbs and gutters, where any increase of the total impervious surface area of the facility is de minimis. This provision does not include critical actions, levee systems, chemical storage facilities (including any tanks), wastewater facilities, or sewer lagoons.

Subpart C—Procedures for Making Determinations on Floodplain Management and Protection of Wetlands

■ 20. Add 55.16 to subpart C to read as follows:

§ 55.16 Applicability of subpart C decisionmaking process.

The following table indicates the applicability, by location and type of action, of the decisionmaking process for implementing Executive Order 11988 and Executive Order 11990 under subpart C of this part.

TABLE 1 TO § 55.16

Type of proposed action (new reviewable action or an amendment) [1]	Floodways	Coastal high hazard and LiMWA areas	Wetlands or FFRMS floodplain outside coastal high hazard area, LiMWA area, and floodways
Critical actions as defined in § 55.2(b)(3).	Critical actions not allowed	Critical actions not allowed	Allowed if the proposed critical action is processed under § 55.20.[2]
Noncritical actions not excluded under § 55.12 or 55.13.	Allowed only if the proposed non-critical action is not prohibited under § 55.8(a)(1) and is processed under § 55.20 [2].	Allowed only if the proposed noncritical action is processed under § 55.20 [2] and is (1) a functionally dependent use, (2) existing construction (including improvements), or (3) reconstruction following destruction caused by a disaster. If the action is not a functionally dependent use, the action must be designed for location in a coastal high hazard area under § 55.8(a)(3).	Allowed if proposed noncritical action is processed under § 55.20.[2]

[1] Under Executive Order 11990, the decisionmaking process in § 55.20 only applies to Federal assistance for new construction in wetlands locations.
[2] Or those paragraphs of § 55.20 that are applicable to an action listed in § 55.14.

■ 21. Amend § 55.20 as follows:
■ a. Revise the undesignated introductory paragraph, paragraph (a), the introductory text to paragraph (b), paragraphs (b)(1) and (2), the introductory text of paragraph (c), paragraphs (c)(1)(i) and (ii), paragraphs (c)(2), (c)(2)(iii), and (c)(3), the introductory text of paragraph (d), paragraphs (d)(1), (d)(2), (d)(2)(i), and (e), the introductory text of paragraph (f), paragraphs (g)(1) and (f)(2)(ii);
■ b. Amend paragraph (b)(3) by removing the word ''HUD'' from the last sentence and adding, in its place, the word ''HUD's''; and
■ c. Add paragraphs (b)(4) and (f)(2)(iii).

The revisions and additions read as follows:

§ 55.20 Decisionmaking process.

Except for actions covered by § 55.14, the decisionmaking process for compliance with this part contains eight steps, including public notices and an examination of practicable alternatives when addressing floodplains and wetlands. Third parties may provide analysis and information to support the decisionmaking process; however, final determinations for each step, authorization of public notices, and receipt of public comments, are the responsibility of HUD or the responsible entity. The steps to be followed in the decisionmaking process are as follows:

(a) *Step 1.* Using the processes described in §§ 55.7 and 55.9, determine whether the proposed action is located in the FFRMS floodplain, or results in new construction in a wetland. If the action does not occur in the FFRMS floodplain or include new construction in a wetland, then no further compliance with this part is required. Where the proposed action would be located in the FFRMS floodplain and includes construction in a wetland, these impacts should be evaluated together in a single 8-step decisionmaking process. In such a case, the wetland will be considered among the primary natural and beneficial functions and values of the floodplain. For purposes of this section, an ''action'' includes areas required for ingress and egress, even if they are not within the site boundary, and other integral components of the proposed action, even if they are not within the site boundary.

(b) *Step 2.* Notify the public and agencies responsible for floodplain management or wetlands protection at the earliest possible time of a proposal to consider an action in a FFRMS floodplain or wetland and involve the affected and interested public and agencies in the decisionmaking process.

(1) The public notices required by paragraphs (b) and (g) of this section may be combined with other project notices wherever appropriate. Notices required under this part must be bilingual or multilingual, as appropriate, if the affected public has Limited English Proficiency. In addition, all notices must be published in a newspaper of general circulation in the affected community or on an appropriate government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency, and must be sent to Federal, State, and local public agencies, organizations, and, where not otherwise covered, individuals known to be interested in the proposed action.

(2) A minimum of 15 calendar days shall be allowed for comment on the public notice. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

* * * * *

(4) When the proposed activity is located in or affects a community with environmental justice concerns under Executive Order 12898, public comment and decisionmaking under this part shall be coordinated with consultation and decisionmaking under HUD policies implementing 24 CFR 58.5(j) or 50.4(l).

(c) *Step 3.* Identify and evaluate practicable alternatives to locating the proposed action in the FFRMS floodplain or wetland.

(1) * * *

(i) Locations outside and not affecting the FFRMS floodplain or wetland;

(ii) Alternative methods to serve the identical project objective, including but not limited to design alternatives such as repositioning or reconfiguring proposed siting of structures and improvements to avoid floodplain and wetland impacts; and

* * * * *

(2) Practicability of alternatives should be addressed in light of the goals identified in the project description related to the following:

* * * * *

(iii) Economic values such as the cost of space, construction, services,

relocation, potential property losses from flooding, and cost of flood insurance.

(3) For multifamily and healthcare projects involving HUD mortgage insurance that are initiated by third parties, HUD in its consideration of practicable alternatives is not required to consider alternative sites, but must include consideration of:

(i) A determination to approve the request without modification;

(ii) A determination to approve the request with modification; and

(iii) A determination not to approve the request.

(d) *Step 4.* Identify and evaluate the potential direct and indirect impacts associated with the occupancy or modification of the FFRMS floodplain or the wetland and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action, including impacts related to future climate-related flood levels, sea level rise, and the related increased value of beneficial floodplain and wetland functions.

(1) *Floodplain evaluation:* The floodplain evaluation for the proposed action must evaluate floodplain characteristics (both existing and as proposed for modification by the project) to determine potential adverse impacts to lives, property, and natural and beneficial floodplain values as compared with alternatives identified in Step 3.

(i) Floodplain characteristics include:

(A) Identification of portions of the site that are subject to flood risk, documented through mapping and, as required by § 55.7(e) or commensurate with the scale of the project and available resources as permitted by § 55.7(f), climate-informed analysis of factors including development patterns, streamflow, and hydrologic and hydraulic modeling;

(B) Topographic information that can inform flooding patterns and distance to flood sources, as described in flood mapping, Flood Insurance Studies, and other data sources; and

(C) Public safety communications and data related to flood risk including available information on structures such as dams, levees, or other flood protection infrastructure located in proximity to the site.

(ii) Impacts to lives and property include:

(A) Potential loss of life, injury, or hardship to residents of the subject property during a flood event;

(B) Damage to the subject property during a flood event;

(C) Damage to surrounding properties from increased runoff or reduction in floodplain function during a flood event due to modification of the subject site;

(D) Health impacts due to exposure to toxic substance releases that may be caused or exacerbated by flood events; and

(E) Damage to a community as a result of project failure (*e.g.,* failure of stormwater management infrastructure due to scouring).

(iii) Impacts to natural and beneficial values include changes to:

(A) Water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge;

(B) Living resources such as flora and fauna (If the project requires consultation under 24 CFR 50.4(e) or 58.5(e), consultation with the U.S. Fish and Wildlife Service or National Marine Fisheries Service must include a description of impacts evaluated under this part);

(C) Cultural resources such as archaeological, historic, aesthetic, and recreational aspects; and

(D) Agricultural, aquacultural, and forestry resources.

(2) *Wetland evaluation:* In accordance with Section 5 of Executive Order 11990, the decisionmaker shall consider factors relevant to a proposal's effect on the survival and quality of the wetland. Factors that must be evaluated include, but are not limited to:

(i) Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards and hazard protection; and sediment and erosion, including the impact of increased quantity or velocity of stormwater runoff on, or to areas outside of, the proposed site;

* * * * *

(e) *Step 5.* Where practicable, design or modify the proposed action to minimize the potential adverse impacts to and from the FFRMS floodplain or wetland and to restore and preserve their natural and beneficial functions and values.

(1) *Elevation.* For actions in the FFRMS floodplain, the required elevation described in this section must be documented on an Elevation Certificate or a Floodproofing Certificate in the Environmental Review Record prior to construction, or by such other means as HUD may from time to time direct, provided that notwithstanding any language to the contrary, the minimum elevation or floodproofing requirement for new construction or substantial improvement actions shall be the elevation of the FFRMS floodplain as defined in this section.

(i) If a residential structure undergoing new construction or substantial improvement is located in the FFRMS floodplain, the lowest floor or FEMA-approved equivalent must be designed using the elevation of the FFRMS floodplain as the baseline standard for elevation, except where higher elevations are required by Tribal, State, or locally adopted code or standards, in which case those higher elevations apply. Where non-elevation standards such as setbacks or other flood risk reduction standards that have been issued to identify, communicate, or reduce the risks and costs of floods are required by Tribal, state, or locally adopted code or standards, those standards shall apply in addition to the FFRMS baseline elevation standard.

(ii) New construction and substantial improvement of non-residential structures, or residential structures that have no dwelling units and no residents below the FFRMS floodplain and that are not critical actions as defined at § 55.2(b)(3), shall be designed either:

(A) With the lowest floor, including basement, elevated to or above the elevation of the FFRMS floodplain; or

(B) With the structure floodproofed at least up to the elevation of the FFRMS floodplain. Floodproofing standards are as stated in FEMA's regulations at 44 CFR 60.3(c)(3)(ii) and 60.3(c)(4)(i), or such other regulatory standard as FEMA may issue, and applicable guidance, except that where the standard refers to base flood level, floodproofing is required at or above the FFRMS floodplain, as defined in this part.

(iii) The term ''lowest floor'' must be applied consistent with FEMA regulations in 44 CFR 59.1 and FEMA's Elevation Certificate guidance or other applicable current FEMA guidance.

(2) *Minimization.* Minimization requires HUD or the responsible entity to reduce harm to the smallest possible degree. Potential harm to or within the floodplain and/or wetland must be reduced to the smallest possible amount. E.O. 11988's requirement to minimize potential harm applies to (1) the investment at risk, or the flood loss potential of the action itself, (2) the impact the action may have on others, and (3) the impact the action may have on floodplain and wetland values. The record must include a discussion of all minimization techniques that will be incorporated into project designs as well as those that were considered but not approved. Minimization techniques for floodplain and wetlands purposes include, but are not limited to:

(i) *Stormwater management and green infrastructure:* the use of permeable surfaces; natural landscape

enhancements that maintain or restore natural hydrology through infiltration, native plant species, bioswales, rain gardens, or evapotranspiration; stormwater capture and reuse; green or vegetative roofs with drainage provisions; WaterSense products; rain barrels and grey water diversion systems; protective gates or angled safety grates for culverts and stormwater drains; and other low impact development and green infrastructure strategies, technologies, and techniques. Where possible, use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration.

(ii) *Adjusting project footprint:* evaluate options to relocate or redesign structures, amenities, and infrastructure to minimize the amount of impermeable surfaces and other impacts in the FFRMS floodplain or wetland. This may include changes such as designing structures to be taller and narrower or avoiding tree clearing to reduce potential erosion from flooding.

(iii) *Resilient building standards:* consider implementing resilient building codes or standards to ensure a reliable and consistent level of safety.

(3) *Restoration and preservation.* Restore means to reestablish a setting or environment in which the natural and beneficial values of floodplains and wetlands could again function. Where floodplain and wetland values have been degraded by past actions, restoration is informed by evaluation of the impacts of such actions on beneficial values of the floodplain or wetland, and identification, evaluation, and implementation of practicable measures to restore the values diminished or lost. Preserve means to prevent modification to the natural floodplain or wetland environment, or to maintain it as closely as possible to its natural state. If an action will result in harm to or within the floodplain or wetland, HUD or the responsible entity must ensure that the action is designed or modified to assure that it will be carried out in a manner which preserves as much of the natural and beneficial floodplain and values as is possible. Restoration and preservation techniques for floodplain and wetlands purposes include, but are not limited to:

(i) Natural Resource Conservation Service or other conservation easements;

(ii) Appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts to more than one acre of wetlands. Compensatory mitigation includes but is not limited to: permittee-responsible mitigation, mitigation banking, in-lieu fee mitigation, the use of preservation easements or protective covenants, and any form of mitigation promoted by State or Federal agencies. The use of compensatory mitigation may not substitute for the requirement to avoid and minimize impacts to the maximum extent practicable.

(4) *Planning for residents' and occupants' safety.* (i) For multifamily residential properties, an evacuation plan must be developed that includes safe egress route(s) out of the FFRMS floodplain, plans for evacuating residents with special needs, and clear communication of the evacuation plan and safety resources for residents.

(ii) For healthcare facilities, evacuation route(s) out of the FFRMS floodplain must be identified and clearly communicated to all residents and employees. Such actions must include a plan for emergency evacuation and relocation to a facility of like capacity that is equipped to provide required critical needs-related care and services at a level similar to the originating facility.

(iii) All critical actions in the FFRMS floodplain must operate and maintain an early warning system that serves all facility occupants.

(f) *Step 6.* HUD or the responsible entity shall consider the totality of the previous steps and the criteria in this subsection to make a decision as to whether to approve, approve with modifications, or reject the proposed action. Adverse impacts to floodplains and wetlands must be avoided if there is a practicable alternative. This analysis must consider:

* * * * *

(2) * * *

(ii) A reevaluation of alternatives under this step should include a discussion of economic costs. For floodplains, the cost estimates should include savings or the costs of flood insurance, where applicable; flood proofing; replacement of services or functions of critical actions that might be lost; and elevation to at least the elevation of the FFRMS floodplain, as appropriate based on the applicable source under § 55.7. For wetlands, the cost estimates should include the cost of filling the wetlands and mitigation.

(iii) If the proposed activity is located in or affects a community with environmental justice concerns under E.O. 12898, the reevaluation must address public input provided during environmental justice outreach (if conducted) and must document the ways in which the activity, in light of information analyzed, mitigation measures applied, and alternatives selected, serves to reduce any historical environmental disparities related to flood risk or wetlands impacts in the community.

(g) * * *

(1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the FFRMS floodplain or the wetland, publish a final notice that includes:

* * * * *

■ 22. Revise § 55.21 to read as follows:

§ 55.21 Alternate processing for existing nonconforming sites.

Notwithstanding the limitations on HUD assistance defined in § 55.8, in exceptional circumstances, the Assistant Secretary for Community Planning and Development may approve HUD assistance or insurance to improve an existing property with ongoing HUD assistance or mortgage insurance if the following conditions are satisfied:

(a) HUD completes an environmental review pursuant to part 50, including the 8-step decisionmaking process pursuant to § 55.20, that:

(1) Documents that it is not practicable to transfer the HUD assistance to a site with lower flood risk under existing program rules, financial limitations, and site availability; and

(2) Mandates measures to ensure that the elevated flood risk is the only environmental hazard or impact that does not comply, or that requires mitigation to comply with HUD's environmental requirements at 24 CFR parts 50, 51, 55, and 58; and

(b) The proposed project incorporates all practicable measures to meaningfully reduce flood risk and increase the overall resilience of the site, including but not limited to elevation or floodproofing of all structures in the FFRMS floodplain, removing all residential units from the floodway, identification of evacuation route(s) out of the FFRMS floodplain, and other measures to minimize flood risk and preserve the function of the floodplain and any impacted wetlands as described in § 55.20(e).

§§ 55.22, 55.24 and 55.25 [Removed and Reserved]

■ 23. Remove and reserve §§ 55.22, 55.24, and 55.25.

■ 24. In § 55.26, revise the introductory text and paragraphs (b)(1) and (c) to read as follows:

§ 55.26 Adoption of another agency's review under the Executive Orders.

If a proposed action covered under this part is already covered in a prior review performed under Executive

Order 11988 or Executive Order 11990 by another agency, including HUD or a different responsible entity, that review may be adopted by HUD or by a responsible entity authorized under 24 CFR part 58 without further public notice, provided that:

* * * * *

(b) * * *

(1) The action currently proposed has not substantially changed in project description, scope, and magnitude from the action previously reviewed by the other agency; and

* * * * *

(c) HUD assistance must be conditioned on mitigation measures prescribed in the previous review.

§§ 55.27 and 55.28 [Removed and Reserved]

■ 25. Remove and reserve §§ 55.27 and 55.28.

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ASSUMING HUD ENVIRONMENTAL REVIEW RESPONSIBILITIES

■ 26. The authority citation for part 58 continues to read as follows:

Authority: 12 U.S.C. 1707 note, 1715z–13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4321–4335, 4852, 5304(g), 12838, and 12905(h); title II of Pub. L. 105–276; E.O. 11514 as amended by E.O. 11991, 3 CFR, 1977 Comp., p. 123.

■ 27. Revise § 58.5(b)(1) as follows:

§ 58.5 Related Federal laws and authorities.

* * * * *

(b) * * *

(1) Executive Order 11988, Floodplain Management, as amended by Executive Order 13690, February 4, 2015 (80 FR 6425), 3 CFR, 2015 Comp., p. 6425, as interpreted in HUD regulations at 24 CFR part 55.

* * * * *

§ 58.43 [Amended]

■ 28. In § 58.43(a):

■ a. Remove ''tribal, local, State and Federal agencies;'' and add in its place ''Tribal, Federal, State and local agencies''; and

■ b. Add ''or on an appropriate Government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency'' between ''affected community'' and the period ending the sentence.

§ 58.45 [Amended]

■ 29. In § 58.45, paragraphs (a), (b), and (c), add ''in a general circulation newspaper or on a Government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency'' after ''published''.

§ 58.59 [Amended]

■ 30. In the introductory text of paragraph (b), add ''or on an appropriate Government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency'' after ''news media''.

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 31. The authority citation for part 200 continues to read:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

■ 32. In § 200.926, add paragraph (a)(3) to read as follows:

§ 200.926 Minimum property standards for one and two family dwellings.

(a) * * *

(3) Applicability of standards to substantial improvement. The standards in § 200.926d(c)(4)(i)–(iii) are also applicable to structures that are approved for insurance or other benefits in connection with substantial improvement, as defined in § 55.2(b)(12) of this title.

* * * * *

■ 33. In § 200.926d, revise paragraphs (c)(4)(i) through (iii), remove paragraph (c)(4)(iv), and redesignate paragraphs (c)(4)(v) and (c)(4)(vi) as paragraphs (c)(4)(iv) and (c)(4)(v), respectively. The revisions read as follows:

§ 200.926d Construction requirements.

* * * * *

(c) * * *

(4) *Drainage and flood hazard exposure*—

(i) *Residential structures located in Special Flood Hazard Areas.* The elevation of the lowest floor (including basements and other permanent enclosures) shall be at least two feet above the base flood elevation (see 24 CFR 55.8(b) for appropriate data sources).

(ii) *Residential structures located in FEMA-designated ''coastal high hazard areas''.*

Where FEMA has determined the base flood level without establishing stillwater elevations, the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) and its horizontal supports shall be at least two feet above the base flood elevation.

(iii) (A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seeks to insure a mortgage on a one- to four-family dwelling that is newly constructed or which undergoes a substantial improvement, as defined in § 55.2(b)(12) of this title (including a manufactured home that is newly erected or undergoes a substantial improvement) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located on a site that is within a Special Flood Hazard Area, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

(*1*) A final Letter of Map Amendment (LOMA);

(*2*) A final Letter of Map Revision (LOMR); or

(*3*) A signed Elevation Certificate documenting that the lowest floor (including basements and other permanent enclosures) of the property improvements is at least two feet above the base flood elevation as determined by FEMA's best available information.

(B) Under the DE program, these mortgages are not eligible for insurance unless the DE mortgagee submits the LOMA, LOMR, or Elevation Certificate to HUD with the mortgagee's request for endorsement.

(iv) *Streets.* Streets must be usable during runoff equivalent to a 10-year return frequency. Where drainage outfall is inadequate to prevent runoff equivalent to a 10-year return frequency from ponding over 6 inches deep, streets must be made passable for commonly used emergency vehicles during runoff equivalent to a 25-year return frequency, except where an alternative access street not subject to such ponding is available.

(v) *Crawl spaces.* Crawl spaces must not pond water or be subject to prolonged dampness.

* * * * *

Adrianne Todman,

Deputy Secretary.

[FR Doc. 2023–05699 Filed 3–23–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2023–OPE–0039]

Negotiated Rulemaking Committee; Public Hearings

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish a negotiated rulemaking committee.

SUMMARY: We announce our intention to establish one or more negotiated rulemaking committee(s), which may include a subcommittee, to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We also announce three public hearings at which interested parties may comment on the topics suggested by the Department and may suggest additional topics that we should consider for action by the negotiating committee. In addition, we announce that the Department will accept written comments on the topics suggested by the Department and suggestions for additional topics that we should consider for action by the negotiating committee.

DATES: The dates, times, and locations of the public hearings are listed under the **SUPPLEMENTARY INFORMATION** section of this document. We must receive written comments on the topics suggested by the Department and additional topics that you believe we should consider for action by the negotiating committee(s) on or before April 24, 2023.

ADDRESSES: Comments must be submitted through the Federal eRulemaking Portal at *regulations.gov*. Information on using *Regulations.gov*, including instructions for submitting comments, is available on the site under ''FAQ.'' If you require an accommodation or cannot otherwise submit your comments via *regulations.gov*, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that we do not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

Privacy Note: The Department's policy is to generally make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals. The Department reserves the right to redact at any time any information in comments that identifies other individuals, includes information that would allow readers to identify other individuals, or includes threats of harm to another person.

FOR FURTHER INFORMATION CONTACT: For information about negotiated rulemaking, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at: *www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html.* For information about the public hearings, or for additional information about negotiated rulemaking, contact: Ashley Clark, U.S. Department of Education, 400 Maryland Ave. SW, Room 2C–185, Washington, DC 20202. Telephone: (202) 453–7977. Email: *ashley.clark@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs authorized under title IV of the HEA, the Secretary must obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from the public, the Secretary conducts negotiated rulemaking to develop the proposed regulations. We announce our intent to develop proposed title IV regulations by following the negotiated rulemaking procedures in section 492 of the HEA.

We intend to select negotiators from nominees of the organizations and groups that represent the interests significantly affected by the proposed regulations. To the extent possible, we will select individual negotiators from the nominees who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA.

Regulatory Issues

We intend to convene one or more committee(s), which may include a subcommittee, to develop proposed regulations pertaining to the title IV, HEA programs. Topics may include:

(1) The Federal TRIO programs, including improvements to programmatic eligibility and operations under 34 CFR parts 642 through 647;

(2) The Secretary's recognition of accrediting agencies in 34 CFR part 602 and related parts;

(3) Institutional eligibility under 34 CFR 600.2, including State authorization as a component of such eligibility under 34 CFR 600.9;

(4) Return of title IV funds, to address requirements for participating institutions to return unearned title IV funds in a manner that protects students and taxpayers while easing administrative burden for institutions of higher education under 34 CFR 668.22;

(5) Cash management, to address timely student access to disbursements of title IV, HEA Federal student financial assistance and provisions related to credit balances, escheatment, or loss of such funds under 34 CFR part 668, subpart K;

(6) Third-party servicers and related issues, such as reporting, financial responsibility, compliance, and past performance requirements as a component of institutional eligibility for participation in the title IV, HEA Federal student financial assistance programs under 34 CFR 668.25 and 682.416; and

(7) The definition of ''distance education'' under 34 CFR 600.2 as it pertains to clock hour programs and reporting for students who enroll primarily online.

We also invite public input on how the Department could, through its title IV regulations, help improve borrowers' understanding of repayment options and ensure borrowers select an income-driven repayment plan instead of a deferment or forbearance if doing so would be the most beneficial payment plan.

After reviewing the public comments presented at the public hearings and in the written submissions, we will publish a document (or documents) in the **Federal Register** announcing the specific topics for which we intend to establish negotiated rulemaking committees, and subcommittee if applicable, and a request for nominations for individual negotiators for the committee who represent the communities of interest that would be significantly affected by the proposed regulations. This document will also be

posted on the Department's website at: *https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html.*

Public Hearings

We will hold public hearings for interested parties to discuss the rulemaking agenda from 10 a.m. to noon and 1 p.m. to 3 p.m., Eastern time, on April 11–13, 2023. Further information on the public hearings is available at: *https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html.*

Individuals who would like to present comments at one of the public hearings must register by sending an email message to *negreghearing@ed.gov* no later than noon, Eastern time, on the business day prior to the public hearing. The message should include the name of the presenter, the general topic(s) the individual would like to address, and one or more dates and times during which the individual would be available to speak. We will attempt to accommodate each speaker's preference, but, if we are unable to do so, we will select speakers on a first-come, first-served basis, based on the date and time we received the message. We will limit each participant to four minutes.

The Department will notify speakers of the time slot reserved for them and provide information on how to log in to the hearing as a speaker. An individual may make only one presentation at the public hearings. If we receive more registrations than we can accommodate, we reserve the right to reject or cancel the registration of an entity or individual affiliated with an entity or individual that is already scheduled to present comments to ensure that a broad range of entities and individuals are able to present. Registration is required to view the virtual public hearings. We will post links for attendees who wish to observe on our website at *https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html.* The Department will also post transcripts of the hearings on that site.

The Department will accept written comments via the Federal eRulemaking portal through April 14, 2023. See the **ADDRESSES** section of this document for submission information.

Schedule for Negotiations

We anticipate that any committee established after the public hearings will begin negotiations in early fall 2023 and will meet for three sessions of 4 days each at roughly 4-week intervals. The dates and locations of these virtual meetings will be published in a subsequent **Federal Register** document and posted online at: *https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html.*

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or portable document format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available for free on the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2023–06028 Filed 3–23–23; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0069; FRL–10579–02–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities February 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 24, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0069, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–1400, email address: *BPPDFRNotices@epa.gov;* or Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or

CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *https://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Amended Tolerances for Non-Inerts

PP 2F9021. EPA–HQ–OPP–2020–0250. BASF Corporation Agricultural Solutions, 26 Davis Drive; P.O. Box 13528, Research Triangle Park, NC 27709, requests to amend 40 CFR part 180.473 by modifying the tolerances for residues of Glufosinate to include residues of L-Glufosinate-ammonium, glufosinate-P-ammonium [(2S)-2-amino-4-(hydroxymethylphosphinyl) butanoic acid -monoammonium salt] as measured by the sum of glufosinate (2-amino-4-(hydroxymethylphosphinyl)butanoic acid) and its metabolites, 2-(acetylamino)-4-(hydroxymethyl phosphinyl) butanoic acid, and 3-(hydroxymethylphosphinyl) propanoic acid, expressed as 2-amino-4-(hydroxy methylphosphinyl)butanoic acid equivalents in or on, in or on canola, meal at 1.1 parts per million (ppm); cattle, fat at 0.40 ppm; cattle, meal at 0.15 ppm; cattle, meat byproducts at 6.0 ppm; corn, field, forage at 4.0 ppm; corn, field, grain at 0.20 ppm; corn, field, stover at 6.0 ppm; corn, sweet, forage at 1.5 ppm; corn, sweet, kernels plus cob with husks removed at 0.30 ppm; corn, sweet, stover at 6.0 ppm; cotton, gin byproducts at 30 ppm; cotton, seed, subgroup C at 15.00 ppm; egg at 0.15 ppm; goat, fat at 0.40 ppm; goat, meat at 0.15 ppm; goat, meat byproducts at 6.0 ppm; grain aspirated fractions at 25.00 ppm; hog, fat at 0.40 ppm; hog, meat at 0.15 ppm; hog, meat byproducts at 6.0 ppm; horse, fat at 0.40 ppm; horse, meat at 0.15 ppm; horse, meat byproducts at 6.0 ppm; milk at 0.15 ppm; poultry, fat at 0.15 ppm; poultry, meat at .15 ppm; poultry, meat byproducts at 0.60 ppm; rapeseed, subgroup 20A at 0.4 ppm; sheep, fat at 0.40 ppm; sheep, meat at 0.15 ppm; sheep, meat byproducts at 6.0 ppm; soybean at 2.0 ppm; soybean, hulls at 10.0 ppm and tolerances for indirect or inadvertent residues on barley, hay at 0.4 ppm; barley, straw at 0.4 ppm; buckwheat, fodder at 0.4 ppm; buckwheat, forage at 0.4 ppm; oat, forage at 0.4 ppm; oat, hay at 0.4 ppm; oat, straw at 0.4 ppm; rye, forage at 0.4 ppm; rye, straw at 0.4 ppm; teosinte at 0.4 ppm; triticale at 0.4 ppm; wheat, forage at 0.4 ppm; wheat, hay at 0.4 ppm; and wheat, straw at 0.4 ppm. The analytical methods water extraction, filtration, addition of an isotopically labeled internal standard followed by solid phase extraction and high-performance liquid chromatography-electrospray ionization/tandem mass spectrometry (LC/MS/MS) are used to measure and evaluate the chemical L-glufosinate ammonium. *Contact:* RD.

B. New Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–11504.* EPA–HQ–OPP–2021–0173. Landis International, Inc. (3185 Madison Highway, Valdosta, GA 31603) on behalf of CJB Applied Technologies, LLC (1105 Innovation Way, P.O. Box 5724, Valdosta, GA 31603) requests to amend 40 CFR part 180.910 in order to permit benzyl alcohol (CAS Reg No. 100–51–6) as an adjuvant included in formulations of pre-harvest crop protection products at concentrations up to 60% of the formulation, and a tank mix-adjuvant added to pre-harvest spray mixtures that contain crop protection products. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11624.* EPA–HQ–OPP–2022–0942. Technology Sciences Group Inc. (1150 18th Street NW, Suite 1000, Washington, DC 20036, on behalf of Veto-Pharma (SAS12–14 Rue de la Croix-Martre 91120 Palaiseau, France), requests to establish an exemption from the requirement of a tolerance in 40 CFR 180.910 for residues of erucamide (CAS Reg. No.112–84–5) as a lubricant inert ingredient in pesticide formulations when applied on the raw agricultural commodities honey and honeycomb. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

3. *PP IN–11658.* EPA–HQ–OPP–2023–0065. Exponent (980 9th Street, 16th Floor, Sacramento, CA 95814), On behalf of UPL NA Inc. (EPA Company Number 70506; 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406), requests to establish an exemption from the requirement of a tolerance for residues of baicalin in both the anhydrous (CAS Reg. No. 21967–41–9) and hydrous (CAS Reg. No. 206752–33–2) forms, when used as a pesticide inert ingredient as a (stabilizer) in pesticide formulations under 40 CFR 180.920 at a maximum concentration of 10% in the end-use formulation. The petitioner believes no analytical method is needed because it is not required for

an exemption from the requirement of a tolerance. *Contact:* RD.

C. New Tolerance Exemptions for Non-Inerts (Except PIPS)

1. *PP 1F8927.* EPA–HQ–OPP–2023–0008. Danisco US, Inc., 925 Page Mill Road, Palo Alto, CA 94304, requests to establish exemptions from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide, bactericide and nematicide Gluconobacter cerinus strain BC18B and Hanseniaspora uvarum strain BC18Y in or on all food commodities. The petitioner believes no analytical method is needed because a petition from the required tolerance is being proposed. *Contact:* BPPD.

2. *PP 1F8955.* EPA–HQ–OPP–2023–0143. Marrone Bio Innovations, D/B/A Marrone Bio Innovations, Inc., 1540 Drew Avenue, Davis, CA 95618, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the insecticide, fungicide, miticide, and nematicide inactivated Burkholderia rinojensis A396 cells and spent fermentation media in or on all agricultural commodities. The petitioner believes no analytical method is needed because a petition for exemption from a tolerance is being submitted. *Contact:* BPPD.

3. *PP 2F8991.* EPA–HQ–OPP–2023–0083. BioConsortia, Inc., 279 Cousteau Place, Davis, CA 95618, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide and bactericide Bacillus velenzensis strain 11604 in or on all food and feed commodities. The petitioner believes no analytical method is needed because a petition from the required tolerance is being proposed. *Contact:* BPPD.

4. *PP 2F9017.* EPA–HQ–OPP–2023–0146. UPL NA Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the insecticide and nematicide Bacillus licheniformis strain 414–01 in or on all raw agricultural commodities. The petitioner believes no analytical method is needed because of the lack of toxicity and pathogenicity demonstrated in the available toxicological data. *Contact:* BPPD.

D. New Tolerance Exemptions for PIPS

IN 11746. EPA–HQ–OPP–2022–0990. Pioneer Hi-Bred International, Inc., 7100 NW 62nd Avenue, P.O. Box 1000, Johnston, Iowa 50131, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectant (PIP) inert ingredient DGT–28 EPSPS protein derived from *Streptomyces sviceus* in or on maize. The analytical method a validated ELISA was used to determine the concentration of DGT–28 EPSPS protein in maize tissues, including grain and forage is available to EPA for the detection and measurement of the inert residues. *Contact:* BPPD.

E. New Tolerances for Non-Inerts

1. *PP 0F8857.* EPA–HQ–OPP–2021–0290. This posting is amending the previous NOF dated October 21, 2021, by announcing commodities that were not included in the previous NOF. Taminco US LLC, a subsidiary of Eastman Chemical Company, 200 S Wilcox Drive, Kingsport, TN 37660–5147, requests to establish a tolerance in 40 CFR part 180 for residues of the plant growth regulator chlormequat chloride in or on Aspirated grain fractions (AGF) at 30 ppm; barley, hay at 90 ppm; barley, straw at 50 ppm; horse, meat byproducts at 1 ppm; horse, meat at 0.2 ppm; oat, forage at 15 ppm; oat, hay at 100 ppm; oat, straw at 50 ppm; wheat, bran at 15 ppm; wheat, germ at 20 ppm; wheat, forage at 30 ppm; wheat, hay at 90 ppm; and wheat, straw at 80 ppm. The validated LC/MS/MS method is used to measure and evaluate the chemical residues of chlormequat chloride in plants and animal products. *Contact:* OPP–RD.

2. *PP 1E8945.* EPA–HQ–OPP–2021–0853. Corteva Agriscience, 9330 Zionsville Rd., Indianapolis, IN 46268, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, sulfoxaflor, in or on the raw agricultural commodity coffee, green bean at 0.3 ppm and coffee, instant at 0.5 ppm. The LC/MS/MS analysis is used to measure and evaluate the chemical sulfoxaflor, 1-(6-trifluoromethylpyridin-3-yl) ethyl(methyl)-oxido-l4-sulfanylidenecyanamide. *Contact:* RD.

3. *PP2F8983.*EPA–HQ–OPP–2022–0354.Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583, requests to establish a tolerance in 40 CFR part 180 for residues of theherbicide epyrifenacil in or oncanola, seed at0.005 ppm; corn, field, forage at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, field, seed at 0.005 ppm; corn, field, hulls at 0.005 ppm; corn, field, meal at 0.005 ppm; soybean, forage at 0.01 ppm; soybean, hay at 0.01 ppm; soybean, seed at 0.005 ppm; soybean, hulls at 0.005 ppm; soybean, meal at 0.005 ppm; wheat, seed at 0.005 ppm; wheat, forage at 0.01 ppm; wheat, hay at 0.01 ppm; wheat, straw at 0.01 ppm; wheat, bran at 0.005 ppm; wheat, flour at 0.005 ppm; wheat, middlings at 0.005 ppm; wheat, shorts at 0.005 ppm; and wheat, germ at 0.005 ppm. Thehigh-performance LC/MS/MS methods are used to measure and evaluate the chemicalepyrifenacil (S–3100). *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: March 20, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–06112 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[CMS–0053–N]

RIN 0938–AT38

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

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule that appeared in the **Federal Register** on December 21, 2022, titled ''Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard. The comment period for the proposed rule, which would end on March 21, 2023, is extended until April 21, 2023.

DATES: The comment period for the December 21, 2022 proposed rule (87 FR 78438) is extended to 5 p.m., eastern daylight time, on April 21, 2023.

ADDRESSES: You may submit comments as outlined in the December 21, 2022 proposed rule (87 FR 78438). Please choose only one of the methods listed.

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

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments

received before the close of the comment period shall be made available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We will post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *https://www.regulations.gov.* Follow the search instructions on that website to view public comments.

In the December 21, 2022 **Federal Register** (87 FR 78438), we published a proposed rule titled ''Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard'' (hereinafter referred to as the December 2022 proposed rule). This rule would implement requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, enacted on March 30, 2010—collectively, the Affordable Care Act. Specifically, this proposed rule would adopt standards for ''health care attachments'' transactions, which would support both health care claims and prior authorization transactions, and a standard for electronic signatures to be used in conjunction with health care attachments transactions. To better support the use of the proposed standards for attachments transactions with prior authorization transactions, this rule also proposes to adopt a modification to the standard for the referral certification and authorization transaction (X12 278) to move from Version 5010 to Version 6020.

In the March 17, 2023 **Federal Register** (88 FR 16392), we published a correcting document to correct typographical and technical errors in the December 2022 proposed rule, for which we had provided for 90 days for public comment. That correcting document simply conformed the regulations text to the proposed policies discussed in the preamble to the December 2022 proposed rule. But, we believe it is important to allow the public to have the benefit of reviewing the proposed rule as we intended it, particularly because most of the errors in the proposed rule were in the regulations text. Therefore, we are extending the comment period for the December, 2022, proposed rule by 30 days. This document announces the extension of the public comment period for the proposed rule, which will now end at 5 p.m., eastern daylight time, on April 21, 2023.

Dated: March 20, 2023.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2023–06034 Filed 3–21–23; 11:15 am]

BILLING CODE 4120–01–P

Notices

Federal Register

Vol. 88, No. 57

Friday, March 24, 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

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding these information collections are best assured of having their full effect if received by April 24, 2023. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Agricultural Marketing Service

Title: Regulations Governing Inspection Certification of Fresh and Processed Fruits, Vegetables and Other Products—7 CFR part 51 and 52.

OMB Control Number: 0581–0125.

Summary of Collection: Office of Management and Budget (OMB) 0581–0125 is authorized under, The Agricultural Marketing Act of 1946 (AMA), as amended, (7 U.S.C. 1621–1627) and ''. . . directs and authorizes the Secretary of Agriculture to inspect, certify, and identify the class, quantity, quality, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary may prescribe, etc. (7 U.S.C. 1622)''. The AMA provides for audit based inspection services so that agricultural products may be marketed to their best advantage, that trade may be facilitated, and that consumers may be able to ascertain characteristics involved in the production and processing of products and obtain the quality of product they desire (7 U.S.C. 1622(h)).

The present Regulations (7 CFR part 51) Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products, and Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR part 52) are promulgated under the provisions of the Agricultural Marketing Act of 1946. The Secretary has delegated this authority to the Agricultural Marketing Service (AMS), Specialty Crops Program (SCP), Specialty Crops Inspection (SCI) Division.

Need and Use of the Information: The information is utilized by USDA, AMS, SCP, SCI Division, for inspection, grading, and certification purposes. SCI Division's grading and inspection services address food safety concerns, while simultaneously measuring and evaluating a multitude of quality parameters that are necessary for the procurement of nutritious foods.

SCI Division's grade standards also serve to bring fresh and processed fruits and vegetables in line with present quality levels being marketed today. This helps the fresh and processed food industries by providing an objective grade-based market stratification system for fresh and processed food products. Fresh and processed food businesses often use the SCI Divisions' quality criteria as the basis for selling fresh and processed food commodities.

Description of Respondents: Business or other for profit.

Number of Respondents: 60,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 25,282.

Agricultural Marketing Service

Title: Mandatory Country of Origin Labeling of All Covered Commodities.

OMB Control Number: 0581–0250.

Summary of Collection: The 2002 (Pub. L. 107–171) and 2008 (Pub. L. 110–234), Farm Bills and the Consolidated Appropriations Act, 2016 (Pub. L. 114–113) amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the country of origin of muscle cuts and ground lamb, chicken, and goat meat; wild and farm-raised fish and shellfish; perishable agricultural commodities; peanuts, pecans, and macadamia nuts; and ginseng. An interim final rule for mandatory Country of Origin Labeling (COOL) for fish and shellfish became effective on April 4, 2005. An interim final rule for the remaining covered commodities became effective on September 30, 2008. On January 15, 2009, a final rule was published for all covered commodities which became effective March 16, 2009. On May 23, 2013, a final rule was published to amend the definition of retailer and labeling requirements for meat muscle cut commodities derived from animals slaughtered in the United States.

With the Consolidated Appropriations Act, 2016, Congress amended the Agricultural Marketing Act of 1946 to remove muscle cut beef and pork, and ground beef and pork commodities from COOL requirements. On March 2, 2016, AMS issued a final rule to remove mandatory COOL requirements for beef, pork, ground beef and ground pork to conform with the statute. Mandatory COOL requirements remain in full force and effect for all remaining covered commodities. Enforcement activities have been conducted since 2006 utilizing cooperative agreements established with State agencies as authorized by the statute. The previously approved information collection request expires on March 31, 2023.

Need and Use of the Information: Producers, handlers, manufacturers, wholesalers, importers, and retailers of covered commodities are affected. This public reporting burden is necessary to ensure accuracy of country of origin and method of production declarations relied upon at the point of sale at retail. The public reporting burden also assures that all parties involved in supplying covered commodities to retail stores maintain and convey accurate information as required.

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

Number of Respondents: 349,598.

Frequency of Responses: Recordkeeping.

Total Burden Hours: 19,879,947.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–06160 Filed 3–23–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

Comments regarding this information collection received by April 24, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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Foreign Agricultural Service

Title: Borlaug Fellowship Program.

OMB Control Number: 0551–New.

Summary of Collection: The primary purpose for this information collection is for the Borlaug Fellowship Program implemented by USDA's Foreign Agricultural Service, Global Programs, Fellowship Programs. Since 2004, U.S. Congress has made funds available to USDA's Borlaug Fellowship Program to provide training to Fellows from middle-income and emerging market countries. The Borlaug Programs provide U.S.-based scientific training and collaborative research opportunities to early- and mid-career scientists, researchers, and policymakers, and can act as market development tools to assist in opening markets and decreasing/eliminating trade barriers. Authority for the program falls under 7 U.S. Code § 3319j: Borlaug International Agricultural Science and Technology Fellowship Program.

Need and Use of the Information: The information collected by Fellowship Programs is used to implement the USDA FAS Borlaug Fellowship Program. The information is collected through the Borlaug Fellowship Application that candidates submit to FAS staff through an electronic application. The Borlaug Fellowship Program applications are collected by Borlaug Fellowship Program staff and are used by fellows to explain their proposed research plans, set a timeframe to achieve goals during and after their program, and exhibit their qualifications as a candidate for the program.

The mid- and post-program evaluation forms are used by Borlaug Fellowship staff to assess the success of each training program. Fellowship staff use the evaluation forms to assess whether programs goals were achieved and receive feedback from participants on how to improve future programming. Without the Fellows applications and evaluations, the Foreign Agricultural Service would not be able execute the Borlaug Fellowship Program and FAS staff would not be able to identify if FAS objectives and goals are being met.

Description of Respondents: Individuals or households.

Number of Respondents: 227.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 715.

Title: Certificate for Quota Eligibility (CQE).

OMB Control Number: 0551–0014.

Summary of Collection: Imports of raw cane sugar are subject to a tariff-rate import quota (TRQ) that is allocated on a country-by-country basis to foreign countries or areas. A U.S. certificate for quota eligibility (CQE) issued by USDA and authenticated by a certifying authority in the foreign country permits entry of raw cane sugar under the TRQ. U.S. Note 5 (a)(i) of the Harmonized Tariff Schedule of the United State requires the Secretary to establish a TRQ for raw-cane sugar (entered under HTS 1701.12.10 and 1701.14.10) during each fiscal year with a minimum TRQ amount of 1,117,195 metric tons, raw value. In Addition 5 (b)(1) authorizes the U.S. Trade Representative to allocate the raw-cane sugar tariff-rate quota among supplying countries. CQEs are issued to the 40 countries that receive TRQ allocations to export sugar to the United State. The CQE is completed by the certifying authority in the foreign country that certifies that the sugar being exported to the United States was produced in the foreign country that has the TRQ allocation. The Foreign Agriculture will collect information using form FAS–961 and other collection activities.

Need and Use of the Information: FAS will collect the following information: (1) country of origin or area of the eligible raw cane sugar; (2) quota period; (3) quantity of raw cane sugar to be exported; (4) details of the shipment (shipper, vessel, port of loading); and (5) additional details if available at the time of shipment (consignee, address of consignee, expected date of departure, expected date of arrival in the U.S., expected port of arrival). The information will help determine if the quantity to be imported is eligible to be entered under the TRQ. Without the CQEs, USDA/FAS and CBP could not administer the raw cane sugar TRQs authorized under U.S. law.

Description of Respondents: Business or other for-profit.

Number of Respondents: 24.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 621.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–06039 Filed 3–23–23; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program (SNAP): Operating Guidelines, Forms, Waivers, and Annual State Report on Verification of SNAP Participation

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This is a revision of a currently approved collection that consists of several components of State agency reporting and/or recordkeeping: State Plan of Operations, Puerto Rico Plan of Operations, Territory Memorandums of Understanding (MOUs), a budget projection statement, a program activity report, waiver requests submitted via the Waiver Information Management System (WIMS), card skimming reporting, and other plans and submissions such as advance planning documents for information systems and for electronic benefit transfer (EBT) systems. This collection also merges the activities under the Annual State Report on Verification of SNAP participation, OMB Control Number 0584–0605, expiration date 06/30/2025 into this collection which ensures that no person who is deceased, or who has been permanently disqualified from SNAP, improperly received SNAP benefits for the fiscal year preceding the report submission. Section 4032 of the Agriculture Act of 2014 is the basis for this collection. The Food and Nutrition Service (FNS) considers an email from each State agency to their corresponding FNS Regional SNAP Program Director verifying their compliance with Section 4032 of the Agriculture Act of 2014 as the mechanism for compliance. FNS intends to discontinue the Annual State Report of Verification of SNAP Participants, OMB Control Number 0584–0605 expiration date 06/30/2025 following OMB approval of this information collection request.

DATES: Written comments must be received on or before May 23, 2023.

ADDRESSES: Comments may be sent to: Maribelle Balbes, Branch Chief, State Administration Branch, Program Administration and Nutrition Division, Food and Nutrition Service, 5th Floor, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22302. Comments may also be submitted via email to *SM.FN.SNAPSAB@usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov*, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Maribelle Balbes 703–605–4272.

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

Title: Operating Guidelines, Forms, Waivers, and Annual State Report on Verification of SNAP Participation.

OMB Number: 0584–0083.

Forms: FNS–366A; FNS–366B; FNS–388; FNS–388A; SF–425/FNS–778 Recordkeeping Only.

Expiration Date: August 31, 2023.

Type of Request: Revision of a currently approved collection.

Abstract: Section 16(a) of the Food and Nutrition Act of 2008 (the Act) authorizes 50 percent Federal reimbursement for State agency costs to administer the program. 7 CFR 272.2(a) of SNAP regulations states that State agencies shall periodically plan and budget program operations and establish objectives for the next year. The basic components of the State Plan of Operation are the Federal/State Agreement, the Budget Projection Statement (FNS–366A), the Program Activity Statement (FNS–366B) (7 CFR 272.2(a)(2)), and a new requirement for State plans for the replacement of stolen SNAP benefits using Federal funds as required by statute under section 501(b) of the Consolidated Appropriations Act, 2023. Under 7 CFR 272.2(c), the State agency shall annually submit to FNS for approval a Budget Projection Statement (FNS–366A) which shall contain projections for each quarter of the next Federal Fiscal Year and a narrative justification document explaining the assumptions used to arrive at the projections. The State agency shall also submit quarterly a Program Activity Statement (FNS–366B) soliciting a summary of Program activity for the State agency's operations during the preceding reporting period. Additionally, State agencies and territories will submit a monthly report of benefit issuance and participation data using the FNS–388, and a semi-annual report of benefit and participation data by project area using the FNS–388A. The FNS–366A, the FNS–366B, FNS–388 and FNS 388A are submitted via the Food Programs Reporting System (FPRS), OMB Control Number 0584–0594 expiration date 07/31/2023, at *https://fprs.fns.usda.gov.* State agencies must also submit annually a State plan for the replacement of benefits stolen via card skimming, card cloning, and other similar fraudulent methods, which allows States to replace stolen benefits with Federal funds. All State Plans of Operation are submitted to FNS via the FNS PartnerWeb at *https://partnerweb.usda.gov/.* Additionally, State agencies must submit quarterly data reports on card skimming via WIMS. Certain attachments to the plan are to be submitted, as applicable. State agencies must provide FNS with changes to these attachments as they occur. Consequently, these attachments are considered State plan updates. Puerto Rico submits a State Plan of Operations while American Samoa and Commonwealth of Northern Mariana Islands (CNMI) submit an MOU that functions as a State Plan of Operations, each of these documents are submitted via email. While working on this revision, FNS became aware that the agency has been collecting this information from American Samoa, Puerto Rico, and the Commonwealth of the Northern Mariana Islands (CNMI); this information was not previously accounted for in this information collection, in violation of the Paperwork

Reduction Act (PRA). FNS has addressed this oversight in this revision.

Under Section 11(o) of the Act, each State agency is required to develop and submit plans via email for the use of automated data processing (ADP) and information retrieval systems to administer SNAP. State agencies and territories are also required to submit a transmittal letter along with the ADP to verify the accuracy of information provided to FNS. Section 16(a) of the Act authorizes partial Federal reimbursement of State costs for State ADP systems that the Secretary determines will assist meeting the requirements of the Act, meets conditions prescribed by the Secretary, are likely to provide more efficient and effective administration of the program, and are compatible with certain other Federally-funded systems. Under 7 CFR 277.18(c)(1) of SNAP regulations, State agencies must obtain prior written approval from FNS when it plans to enhance, replace, or acquire Information System (IS) equipment with a total acquisition cost of $6 million or more in Federal and State funds. The State agency must submit via email an Advance Planning Document (APD) prior to acquiring planning services and an Implementation APD prior to acquiring ADP equipment or services. Additionally, State agencies administering SNAP may submit a request through WIMS, to obtain approval from FNS to deviate from a specific program rule or regulation. Current procedures require that in order for FNS to approve a SNAP waiver request, the State agency must submit the SNAP Waiver Request to FNS via WIMS.

SNAP regulations at 7 CFR 273.16 require that State agencies disqualify an individual who has committed an intentional program violation (IPV). Paragraph 7 CFR 273.16(e)(8) requires that these individuals ''be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section'' (7 CFR 273.16(b)). Paragraph 7 CFR 273.16(i) requires State agencies to report information concerning each individual disqualified for an IPV to the disqualified recipient database, the electronic Disqualified Recipient System (eDRS), and to use eDRS data to determine the eligibility of individual applicants prior to certification. Activities associated with the reporting of this data are covered under Federal Collection Methods for SNAP Recipient Claims, OMB Control Number 0584–0446, expiration 09/30/2025; SNAP regulations at 7 CFR 272.14 require that each State agency establish a system to verify and ensure that benefits are not issued to individuals who are deceased, and that data source is the Social Security Administration's (SSA) Death Master File. The information required for the Annual State Report on Verification of SNAP Participation is obtained by validating that the State had the appropriate systems in place and followed procedures currently mandated at 7 CFR 272.14 and 7 CFR 273.16 for the preceding fiscal year. The burdens associated with establishing a system to verify and ensure that benefits are not issued to deceased individuals or those permanently disqualified from SNAP using both the SSA Death Master File and eDRS are already approved under SNAP Forms: Applications Periodic Reporting, Notices, OMB burden number 0584–0064, expiration date 02/29/2024.

In order to meet the reporting requirements specified in section 4032 of the Act, States are required to confirm via email to their FNS Regional SNAP Program Director that in the immediately preceding Federal fiscal year, they had the appropriate systems in place to meet the requirements of regulations at 7 CFR 272.14 and 273.16(i)(4) and that they conducted the matches required by these regulations. States are required to submit their section 4032 reports to the FNS Regional SNAP Director by March 31 each year for the preceding Federal fiscal year. The reporting and recordkeeping burden from OMB Control Number 0584–0605, Annual State Report on Verification of SNAP Participation, expiration date 06/30/2025 is being merged into this collection to improve operational efficiency and streamline information collection. The reporting burden being merged from this collection includes an annual email reminder from the FNS regional Offices, the compilation of information to confirm proper systems are in place for matches, and reporting information to FNS via email. Recordkeeping burden being merged from this collection includes maintaining match records.

Burden Estimates: The burden within this collection consists of reporting burden for the State Plan of Operation and Territory Memorandum of Understandings, APD Plans or Updates, and SNAP waiver requests via WIMS. With the merging of reporting burden from OMB Control Number 054–0605 into this collection, additional reporting burden includes an annual email reminder from FNS Regional Offices, the compiling of information to confirm proper systems are in place for eDRS and Deceased Matching System, and reporting that information to FNS via email. Recordkeeping burden for this collection includes forms FNS–366A FNS–366B, FNS–388, and FNS 388A, Plan of Operations Updates, card skimming records, Territory MOU Updates, SF–425, other APD Plans or Updates, and the maintenance of the confirmation of match records. The previously reported burden for this information collection was 1,124 burden hours. The requested burden for this collection is 1,230.95 hours (1,138.1 reporting burden hours and 92.85 recordkeeping hours). The increase in requested burden is to account for previously unreported burden related to information collected from territories in violation of the PRA, the merging of OMB Control Number 0584–0605 into this collection, the addition of card skimming plans as a part of the State Plans of Operations, and card skimming reporting.

Reporting

Reporting Burden Estimates: Affected public: State, Territory, local and Tribal Government agencies.

Estimated Number of Respondents: 164.

Estimated Number of Responses per Respondent: 4.82.

Estimated Total Annual Responses: 790.

Estimated Reporting Time per Response: 1.44.

Estimated Annual Reporting Burden Hours: 1,138.10.

Under 7 CFR 272.2 & 285.3—State Plan of Operations: 53 State agencies submit 1 response annually for a total of 53 annual responses. The reporting burden for submission of updates to State Plans of Operation is 7.5845 hours per respondent, resulting in an estimated 401.98 burden hours. FNS increased the time it takes to complete a State Plan of Operations by 1 hour, from 6.5845 hours per respondent to 7.5845 hours per respondent to account for the annual submission of a card skimming plan as a part of the State Plan of Operations.

Under the Consolidated Appropriations Act, 2023 Section 501(b)—Card Skimming Reporting: 53 State agencies report on card skimming quarterly (4) for a total of 212 responses. The reporting burden for submissions of card skimming reporting is 1 hour per respondent, resulting in an estimated 212 burden hours.

Under 7 U.S.C. 2028 and 7 CFR 272.2—Territories Memorandum of Understandings and Puerto Rico Plan of Operations: 3 Territories (CNMI American Samoa, and Puerto Rico) submit 1 response annually for a total of 3 annual responses. The reporting

burden for submission of Territory MOUs and Puerto Rico Plan of Operations is 6.5845 hours per respondent resulting in an estimated 19.7535 burden hours.

Under 7 CFR 277.18—Advance Planning Document: FNS estimates that up to 56 State agencies and territories submit 1 APD, plan, or update submissions for a total of 56 annual responses at an average estimate of 2.5 hours per respondent. The estimated reporting burden for submission of other APD Plans or Updates is 140 burden hours.

Under 7 CFR 277.18—Report ADP to FNS via email: FNS estimates that 56 State agencies and territories will submit 1 APD via email to FNS once a year for a total of 56 responses. FNS estimates it will take approximately .5 hours (30 minutes) to compile this information and email it to FNS for a total of 28 burden hours.

Under 7 CFR 277.18—FNS Transmittal Letter for APD: FNS estimates that 56 State agencies and territories may submit 1 transmittal letter in conjunction with the APD to verify the accuracy of the information they are submitting once per year for a total of 56 annual responses. FNS estimates it will take .167 hours (10 minutes) for a State agency to draft and submit the transmittal letter for an estimated burden of 9.352 hours.

Under 7 CFR 277.18—Other APD Plan or Update: FNS estimates that approximately 12 State agencies or territories will update its APD once a year for a total of 12 annual responses. FNS estimates it will take 2.5 hours to update the APD plan for a total of 30 burden hours to submit updates to the APD.

Under 7 CFR 272.3(c)—SNAP Waiver Requests (WIMS): FNS estimates that 45 of 53 State agencies will submit 4 waivers annually for a total number of 180 waivers annually. Completion and submission of these waivers take approximately 1 hour for a total of 180 burden hours annually.

Under 7 CFR 272.13 and 7 CFR 273.16—Annual Email Reminder from FNS Regional Offices: FNS estimates that 53 State agencies and Puerto Rico will receive an annual reminder to confirm use of matches related to eDRS and/or Deceased Matching System for an estimated total annual response of 54. FNS estimates it will take .167 hours (10 minutes) to delegate this task for a total of 9.018 burden hours.

Under 7 CFR 272.13 and 7 CFR 273.16—Compile Information to Confirm Proper Systems are in Place for Matches: FNS estimates that 53 State agencies and Puerto Rico will compile information to confirm their systems are in place for eDRS and Deceased Matching Systems for an estimated total annual response of 54. FNS estimates it will take approximately 1 hours to compile this information for a total of 54 annual burden hours.

Under 7 CFR 272.13 and 7 CFR 273.16—Report Information to FNS via Email: FNS estimates that 53 State agencies and Puerto Rico will report the compiled information to FNS once for a total of 54 annual responses. FNS estimates it will take approximately 1 hour to report this information to FNS for a total of 54 annual burden hours.

Regulation	Respondent type	Burden activity	Estimated number of respondents	Estimated responses per respondent	Estimated total annual responses	Estimated hours per response	Estimated total annual hours	Burden hours in use without a valid OMB control No.	Previously approved burden hours merge from 0605	Previously approved burden hours for 0083	Difference due to adjustments	Differences due to program changes
REPORTING												
State Agency Burden												
272.2, 285.3	State Government Management Analyst.	Plan of Operations	53	1	53	7.5845	401.9785			348.74	53.2385	
Consolidated Appropriations Act, Section 501(b).	State Government Management Analyst.	Card Skimming Reporting.	53	4	212	1	212					212
272.2	State Government Management Analyst.	Territory Memorandum of Understanding (MOU) and Puerto Rico Plan of Operations.	3	1	3	6.5845	19.7535	19.7535			19.7535	
277.18	State Government Management Analyst.	Advance Planning Document (APD).	56	1	56	2.5	140	140			140	
277.18	State Government Management Analyst.	Report ADP to FNS via email.	56	1	56	0.5	28	28			28	
277.18	State Government Management Analyst.	Transmittal Letter for APD.	56	1	56	0.167	9.352	9.352			9.352	
277.18	State Government Management Analyst.	Other APD Plan or Update*.	12	1	12	2.5	30			530	−500	
272.3(c)	State Government Management Analyst.	SNAP Waiver Requests (WIMS).	45	4	180	1	180			177.3	2.7	
272.14, 273.16	Administrative Manager.	Annual Email Reminder from FNS Regional Offices *(0605)**.	54	1	54	0.167	9.018	0.167	8.85		0.167	
272.14, 273.16	Eligibility Interviewer	Compile Information to Confirm Proper Systems are in Place for Matches *(0605)*.	54	1	54	1	54	1	53		1	
272.14, 273.16	Administrative Manager.	Report Information to FNS via email *(0605)**.	54	1	54	1	54	1	53		1	
State Agency Reporting Total Burden Estimates.	164	4.817073171	790	1.440635443	1138.10	199.2725			−244.789	212		

* **Note:** 54 State agency Administrative Managers and 54 State agency Eligibility Interviewer are counted 1 time each, plus the 56 State agencies and territories for a total of 164 respondents for this data collection.

Recordkeeping

Recordkeeping Burden Estimates: Affected Public: State, Territory, Local and Tribal Government Agencies.

Estimated Number of Recordkeepers: 68.

Estimated Number of Records per Recordkeepers: 25.35.

Estimated Total Annual Records: 1,724.

Estimated Recordkeeping time per Recordkeepers: 0.06.

Estimated Annual Recordkeeping Burden Hours: 93.45.

Using 7 CFR 272.21(f) for all of the recordkeeping burden established for this information collection request—FNS–366A: 53 State agencies and Puerto Rico, are required to submit to FNS for approval a Budget Projection Statement, Form FNS–366A, which includes projections of the total Federal costs for major areas of program operations. There is a total of 54 recordkeepers for this activity. Each respondent submits 1 response annually for a total of 54 annual responses. A copy is maintained for 3 years. It takes approximately 0.0501 hours (3 minutes) to maintain each record. Total annual recordkeeping burden for FNS–366A is estimated at 2.7054 hours annually.

FNS–366B: 53 State agencies, Puerto Rico, and CNMI are required to submit to FNS quarterly, a Program Activity Statement, Form FNS–366B, providing a summary of program activity for the State agency's operations during its preceding quarter. Each State agency submits 4 responses annually for a total of 220 annual responses; each record takes approximately 0.0501 hours (3 minutes) to maintain. The annual recordkeeping burden for FNS–366B is estimated to be 11.022 hours.

FNS–388: 53 State agencies, American Samoa, CNMI, and Puerto Rico are required to submit to FNS a monthly report of benefit issuance and participation data using the form FNS–388. Each State agency submits 12 responses annually for a total of 672 annual responses; each record takes approximately .0501 hours (3 minutes) to maintain. The annual recordkeeping burden for FNS–388 is estimated to be 33.6672 hours.

FNS–388A: 53 State agencies and American Samoa are required to submit to FNS a semi-annual report of benefit and participation data by project area using the form FNS–388A. Each State agency submits 2 responses annually for a total of 108 annual responses; each record takes approximately .0501 hours (3 minutes) to maintain. The annual recordkeeping burden for FNS–388A is estimated to be 5.4108 hours.

State Plan of Operation Updates: 53 State agencies update the State plan of operations once annually for a total of 53 annual records; each record takes approximately 0.0668 hours (4 minutes) to maintain. The annual recordkeeping burden for updates to State Plans of Operation is 3.5404 hours.

Card Skimming Records: 53 State agencies are required to submit to FNS quarterly, card skimming records, providing updates and estimates on card skimming plans and activities in their State. Each State agency submits 4 responses annually for a total of 212 annual responses; each record takes approximately 0.668 hours (4 minutes) to maintain. The annual recordkeeping burden for updates to card skimming Records is 14.16 hours.

Territory MOUs and Puerto Rico Plan of Operations Updates: American Samoa and CNMI update their MOUs, and Puerto Rico updates its Plan of Operations, once annually for a total of 3 total annual records. Each record takes approximately .0668 hours (4 minutes) to maintain. The annual recordkeeping burden for updates to Territory MOUs and Puerto Rico Plan of Operations Updates is .2004 hours.

SF 425/FNS–778: 53 State agencies, Puerto Rico, CNMI, and American Samoa complete an SF–425/FNS–778 quarterly for a total of 224 estimated total records. It takes approximately .0501 hours (3 minutes) to maintain these records for a total of 11.2224 recordkeeping burden hours.

Advance Planning Documents: FNS estimates that 56 State agencies and 3 territories may submit 1 APD submission and approximately 56 records at an average estimate of 0.0501 hours (3 minutes) per record for an estimated total of 2.8056 recordkeeping burden hours.

Transmittal Letter for APD: FNS estimates that 56 State agencies and territories submit 1 transmittal letter for APDs for a total of 56 submissions and records at an estimate of .0501 hours (3 minutes) per record. The total estimated recordkeeping hours for a transmittal letter for APDs is 2.8056 hours.

Other APD plan or Update: FNS estimates that 12 State agencies and territories may submit 1 update to its APD for a total of 12 records. FNS estimates it will take .1169 hours (7 minutes) to maintain each record for a total of 1.4028 recordkeeping burden hours.

Maintain Confirmation of Match Records: FNS estimates that 53 State agencies and Puerto Rico will maintain 1 confirmation of match records for an estimated total of 54 annual records. FNS estimates it will take .0835 hours (5 minutes) to maintain these records for an estimated total of 4.51 recordkeeping burden hours.

Regulations	Respondent type	Form No. or activities	Number of record-keepers	Number of records per recordkeeper	Estimated total annual records	Estimated hours per recordkeeper	Estimated total annual hours	Burden hours in use without a valid OMB control No.	Previously approved burden hours merge from 0605	Previously approved burden hours merge from 0083	Difference due to adjustments	Differences due to program changes
	State Government Management Analyst.	FNS–366A	54	1	54	0.0501	2.7054	0.0501		2.65	0.0501	
	State Government Management Analyst.	FNS–366B	55	4	220	0.0501	11.022	0.4008		10.6	0.4008	
	State Government Management Analyst.	FNS–388	56	12	672	0.0501	33.6672	1.8036		15.26	20.2108	
	State Government Management Analyst.	FNS–388A	54	2	108	0.0501	5.4108	0.1002		2.54	2.971	
	State Government Management Analyst.	Plan of Operations Updates.	53	1	53	0.0668	3.5404			3.15	0.3904	
	State Government Management Analyst.	Card Skimming Records.	53	4	212	0.0668	14.1616					14.1616
	State Government Management Analyst.	Territory MOU and Puerto Rico Plan of Operations Updates.	3	1	3	0.0668	0.2004	0.2004			0.2004	
	State Government Management Analyst.	SF–425/FNS–778	56	4	224	0.0501	11.2224	0.6012		10.6	0.6012	
	State Government Management Analyst.	Advance Planning Document (APD).	56	1	56	0.0501	2.8056	2.8056			2.8056	
	State Government Management Analyst.	Transmittal Letter for APD.	56	1	56	0.0501	2.8056	2.8056			2.8056	
	State Government Management Analyst.	Other APD Plan or Update.	12	1	12	0.1169	1.4028			23.32	−21.9172	
7 CFR 272.1(f)	Eligibility Interviewer	Maintain Confirmation of Match Records *(0605)*.	54	1	54	0.0835	4.51	0.0835	4.4		0.0835	
Recordkeeping Total Estimates.			68	25.35294118	1,724	0.054207193	93.45	8.8009			8.5521	14.1616

* **Note:** The 56 State agencies and territories employees and the maintenance of match records employees were only counted once each for a total of 112 recordkeepers.

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2023–06107 Filed 3–23–23; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board will hold a public meeting according to the details shown below. The committee is authorized under the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, the Federal Public Lands Recreation Enhancement Act, and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire, insect and disease, travel management, forest monitoring and evaluation, recreation fees, and site-specific projects having forest-wide implications.

DATES: An in-person meeting will be held on April 19, 2023, 1 p.m.–4:30 p.m. Mountain Daylight Time.

Written Comments: Written public comments will be accepted by 11:59 p.m. (MDT) on April 14, 2023. Written comments must be sent by email to *scott.j.jacobson@usda.gov or* via mail (*i.e.,* postmarked) to *Scott Jacobson, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702.* The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. MDT, April 14, 2023, and speakers can only register for one speaking slot. Oral comments must be sent by email to *scott.j.jacobson@usda.gov or* via mail (*i.e.,* postmarked) to *Scott Jacobson, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702.* Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. (MDT) on April 14, 2023. Comments submitted after this date will be provided to the Agency, but the Committee may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held in person, at the U.S. Forest Service, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702. Board information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees or* by contacting the person listed under **FOR FUTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Bryan Karchut, Designated Federal Officer (DFO), by phone at 605–673–9201 or email at *bryan.karchut@usda.gov* or Scott Jacobson, Committee Coordinator, at 605–440–1409 or email at *scott.j.jacobson@usda.gov.*

SUPPLEMENTARY INFORMATION: The meeting agenda will include:

1. Non-Motorized Recreation;
2. Recreation Residence Program;
3. Lands Program;
4. Priority Firesheds; and
5. Forest Plan Revision.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to seven days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section, USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: March 20, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–06067 Filed 3–23–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Advisory Committee on Minority Farmers

AGENCY: Office of Partnerships and Public Engagement (OPPE), USDA.

ACTION: Notice of solicitation for members.

SUMMARY: The Department of Agriculture's (USDA) Office of Partnerships and Public Engagement (OPPE) is seeking nominations for individuals to serve on the Advisory Committee on Minority Farmers (''Advisory Committee''). The Advisory Committee consists of 15 members who are expected to serve a 2-year term and may be reappointed for an additional two terms. Advisory Committee members will represent historically underserved farmers and farming communities and should also reflect the diversity of agriculture in geography, size, scale, type of production. The membership shall include: six (6) or more farmers or ranchers; two (2) or more individuals from minority serving

institutions of higher education; two (2) or more individuals from community-based nonprofit organizations; and two (2) or more individuals with civil rights and equity expertise.

DATES: All nomination packages received by April 24, 2023 will be considered.

ADDRESSES: Nominations may be submitted electronically to the Advisory Committee's dedicated email inbox at *acmf@usda.gov.* Nominations may also be sent via first-class mail to: Advisory Committee on Minority Farmers, Office of Partnerships and Public Engagement, 1400 Independence Avenue SW, Mail Stop 0601, Room 524–A, Washington, DC 20250. All nominations received prior to the deadline under **DATES** (above) will be considered.

FOR FURTHER INFORMATION CONTACT: Ms. R. Jeanese Cabrera, Designated Federal Officer, Office of Partnerships and Public Engagement, 1400 Independence Avenue SW, Mail Stop 0601, Room 524–A, Washington, DC 20250; Phone: (202) 720–6350; Email: *acmf@usda.gov.*

SUPPLEMENTARY INFORMATION:

Member Nominations. Any interested person or organization may nominate individuals for membership. Interested candidates may nominate themselves. Nomination packages will require a cover letter to the Secretary of Agriculture and the nominee's resume which should be limited to five one-sided pages. For resumes received that are more than five one-sided pages in length, only the first five pages will be reviewed. A completed and signed USDA Advisory Committee Membership Background Information form (AD–755) is also required. A fillable form AD–755 may be accessed here: *https://www.usda.gov/sites/default/files/documents/ad-755.pdf.* Endorsements, letters of recommendations, nominee's writings or published papers related to reducing barriers to accessing public programs and services, addressing historic discrimination and disparities, or other topics reflecting a nominee's experience and perspectives, are optional.

Nomination for membership is open to the public within the United States and its territories (Puerto Rico and the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianna Islands). Final selection of Advisory Committee members is made by the Secretary.

The Committee was established pursuant to section 14008 of the Food Conservation and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651, 2008 (7 U.S.C. 2279), to ensure that socially disadvantaged farmers have equal access to USDA programs. The Secretary selects a diverse group of members representing a broad spectrum of persons to recommend solutions to the challenges of minority farmers and ranchers.

The Advisory Committee will meet no less than once annually to advise the Secretary of Agriculture on: (1) implementation of the Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program (also known as the 2501 Program) under section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); (2) methods that maximize the participation of minority farmers and ranchers in U.S. Department of Agriculture programs; (3) civil rights activities within the Department, as such activities relate to participants in such programs. Advisory Committee public meetings may be held in hybrid style giving participants the choice to attend in person or virtually.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, political beliefs, 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). This Advisory Committee is statutorily mandated, and its members may be designated as Representatives or Special Government Employees (SGEs). SGEs are appointed for their personal knowledge, academic scholarship, background, and expertise in specific subject matter areas as may be required during their terms.

Additional guidance on submitting nominations and a fillable AD–755 (pdf) background disclosure form can be found on the Advisory Committee on Minority Farmers' website at *https://www.usda.gov/partnerships/advisory-committee-on-minority-farmers.*

Dated: March 20, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–06053 Filed 3–23–23; 8:45 am]

BILLING CODE 3412–88–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Guam Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Zoom at 9 a.m. ChST on Tuesday, March 21, 2023, (7 p.m. ET on Monday, March 20, 2023) to continue discussing the Committee's project on housing discrimination.

DATES: The meeting will take place on Tuesday, March 21, 2023, from 9 a.m.–10:30 a.m. ChST (Monday, March 20, 2023, from 7 p.m.–8:30 p.m. ET).

Registration Link (Audio/Visual): https://tinyurl.com/2s3tjuav.

Telephone (Audio Only): Dial (833) 435–1820 USA Toll Free; Meeting ID: 160 400 6634.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captions will be provided for individuals who are deaf, deafblind, or hard of hearing. To request additional accommodations, please email *kfajota@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the

regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

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

Agenda

I. Welcome & Roll Call
II. Announcements & Updates
III. Approval of Meeting Minutes
IV. Discussion: Draft Project Proposal
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: March 20, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–06061 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Housing Vacancy Survey (HVS)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 16, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Housing Vacancy Survey.

OMB Control Number: 0607–0179.

Form Number(s): None.

Type of Request: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Number of Respondents: 72,000.

Average Hours per Response: 0.05.

Burden Hours: 3,600.

Needs and Uses: Collection of the HVS in conjunction with the Current Population Survey began in 1956 and serves a broad array of data users. The HVS provides the only quarterly statistics on rental vacancy rates and homeownership rates for the United States, the four census regions, the 50 states and the District of Columbia, and the 75 largest metropolitan statistical areas (MSAs). Private and public sector organizations use these rates extensively to gauge and analyze the housing market with regard to supply, cost, and affordability at various points in time.

Policy analysts, program managers, budget analysts, and congressional staff use these data to advise the executive and legislative branches of government with respect to the number and characteristics of units available for occupancy and the suitability of housing initiatives. These data are a component of consumer expenditure statistics. They also are used to project mortgage demand and to measure the adequacy of the supply of rental and homeowner units. In addition, investment firms use the HVS data to analyze market trends and for economic forecasting.

Affected Public: Individuals who have knowledge of the vacant sample unit (landlords, rental agents, neighbors).

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182; and Title 29, United States Code, Section 2.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0179.

Sheleen Dumas,

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

[FR Doc. 2023–06163 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–48–2023]

Foreign-Trade Zone 44; Application for Subzone; Givaudan Fragrances Corporation; Mount Olive, Flanders and Towaco, New Jersey

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the State of New Jersey, Department of State, grantee of FTZ 44, requesting subzone status for the facilities of Givaudan Fragrances Corporation (Giavaudan), located in Mount Olive, Flanders and Towaco, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 21, 2023.

The proposed subzone would consist of the following sites: *Site 1* (4.7 acres) 300 Waterloo Valley Road, Mount Olive; *Site 2* (1.6 acres) 700 Bartley Chester Road, Flanders; and *Site 3* (18.7 acres) 5 Jacksonville Road, Towaco. A notification of proposed additional production activity has been submitted and is being processed under 15 CFR 400.37 (Doc. B–16–2023). The proposed subzone would be subject to the existing activation limit of FTZ 44.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 3, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 18, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov.*

Dated: March 21, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–06135 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Manuel Alonso Enriquez, 12129 St. Laurence Avenue, El Paso, Texas 79936; Order Denying Export Privileges

On September 17, 2020, in the U.S. District Court for the Western District of Texas, Manuel Alonso Enriquez (''Enriquez'') was convicted of violating 18 U.S.C. 554(a). Specifically, Enriquez was convicted of knowingly and unlawfully attempting to export from the United States to Mexico, 3,000 rounds of 7.62 x 39 caliber ammunition. As a result of his conviction, the Court sentenced Enriquez to 37 months in prison, three years of supervised release, $150 criminal fine and a $100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Enriquez's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Enriquez to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Enriquez.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Enriquez's export privileges under the Regulations for a period of 10 years from the date of Enriquez's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Enriquez had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until September 17, 2030, Manuel Alonso Enriquez, with a last known address of 12129 St. Laurence Avenue, El Paso, Texas 79936, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Enriquez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Enriquez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Enriquez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 17, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06121 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Jesus Adrian Ramirez, 534 N Maknab Drive, Apt. C, Nogales, AZ 85621 and 154 W Mendibles Street, Nogales, AZ 85621; Order Denying Export Privileges

On December 16, 2020, in the U.S. District Court for the District of Arizona, Jesus Adrian Ramirez (''Ramirez'') was

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

convicted of violating 18 U.S.C. 554(a). Specifically, Ramirez was convicted of smuggling and attempting to smuggle from the United States to Mexico, firearms and firearm components, including: one 40 round AK–47 variant firearm magazine, two AK–47 variant firearm barrels, two AK–47 variant firearm bolts, two AK–47 variant firearm bolt springs, two AK–47 variant firearm gas pistons, and one AR variant firearm unfinished lower receiver. As a result of his conviction, the Court sentenced Ramirez to 46 months of confinement with credit for time served, three years of supervised release, and a $100 special assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Ramirez's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Ramirez to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Ramirez.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Ramirez's export privileges under the Regulations for a period of 10 years from the date of Ramirez's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Ramirez had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until December 16, 2030, Jesus Adrian Ramirez, with last known addresses of 534 N Maknab Drive, Apt. C, Nogales, AZ 85621 and 154 W Mendibles Street, Nogales, AZ 85621, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Ramirez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Ramirez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Ramirez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 16, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06133 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Gerardo Emmanuel Sifuentes, 247 Val Verde Street, El Paso, TX 79905–3916; Order Denying Export Privileges

On September 17, 2020, in the U.S. District Court for the Western District of Texas, Gerardo Emmanuel Sifuentes (''Sifuentes'') was convicted of violating 18 U.S.C. 554(a). Specifically, Sifuentes was convicted of smuggling and attempting to smuggle from the United States to Mexico, approximately 5,000 rounds of 7.62 x 39 caliber ammunition, an Anderson Manufacturing AR–15 rifle, and a Beretta 9mm handgun.

As a result of his conviction, the Court sentenced Sifuentes to 46 months of confinement, three years of supervised release, $100 special assessment and $250 fine.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1]

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense

the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Sifuentes's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Sifuentes to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Sifuentes.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Sifuentes's export privileges under the Regulations for a period of 10 years from the date of Sifuentes's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Sifuentes had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until September 17, 2030, Gerardo Emmanuel Sifuentes, with a last known address of 247 Val Verde Street, El Paso, TX 79905–3916, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Sifuentes by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Sifuentes may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Sifuentes and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 17, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06131 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Enrique Reyes-Morales, Inmate Number: 54549–509, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, P.O. Box 1000, White Deer, PA 17887; Order Denying Export Privileges

On January 10, 2022, in the U.S. District Court for the Southern District of Texas, Enrique Reyes-Morales (''Reyes-Morales'') was convicted of violating 18 U.S.C. 554(a). Specifically, Reyes-Morales was convicted of smuggling and attempting to smuggle, from the United States to Mexico, sixty-seven (67) 7.62X39 rifles, fourteen (14) 5.56 rifles, two (2) .308 rifles, one (1) .223 rifle, one (1) 12 gauge shotgun, four (4) 20 gauge shotguns, four (4) 10–22 rifles, fourteen (14) 9mm handguns, seven (7) .22 caliber handguns, two (2) .380 handguns, one (1) gun suppressor, one-hundred-sixty-one (161) magazines, five-hundred-sixty-two (562) rounds of ammunition, and thirty-eight (38) miscellaneous weapon accessories including various scopes and flashlights without the required license or written approval. As a result of his conviction, the Court sentenced Reyes-Morales to 48 months of confinement, three years of supervised release and a $100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Reyes-Morales's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Reyes-Morales to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Reyes-Morales.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Reyes-Morales's export privileges under the Regulations for a period of 10 years from the date of Reyes-Morales's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Reyes-Morales had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until January 10, 2032, Enrique Reyes-Morales, with a last known address of Inmate Number: 54549–509, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Reyes-Morales by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Reyes-Morales may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Reyes-Morales and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 10, 2032.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06127 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Randy Lew Williams, 4009 Oxford Way, Norman, OK 73072–3231; Order Denying Export Privileges

On March 3, 2021, in the U.S. District Court for the Western District of Oklahoma, Randy Lew Williams (''Williams'') was convicted of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778) (''AECA''). Specifically, Williams was convicted of knowingly and willfully exporting and causing to be exported from the United States to Iraq, Glock 19 gun barrels; Glock 19 slides, a Glock 19 recoil spring assembly, a Glock 19 slide stop lever, a Glock 19 trigger mechanism housing with ejector, and a Glock 19 trigger with trigger bar, which are designated as defense articles on the United States Munitions Lists, without having first obtained from the Department of State a license for such export or written authorization. As a result of his conviction, the Court sentenced Williams to 40 months of confinement, two years of supervised release and a $300 assessment. Williams was also placed on U.S. Department of State's debarred list.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''), the export privileges of any person who has been convicted of certain offenses, including, but not limited to, section 38 of the AECA, may be denied for a period of up to ten (10) years from the date of his/her conviction. *See* 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Williams's conviction for violating section 38 of the AECA. BIS provided notice and opportunity for Williams to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations (''EAR'' or

the ''Regulations''). 15 CFR 766.25.[1] BIS has not received a written submission from Williams.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Williams's export privileges under the Regulations for a period of 10 years from the date of Williams's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Williams had an interest at the time of his conviction.[2]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until March 3, 2031, Randy Lew Williams, with a last known address of 4009 Oxford Way, Norman, OK 73072–3231, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Williams by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Williams may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Williams and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 3, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06126 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[2] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Genovevo Alvarez-Ronquillo, Inmate Number: 04312–151, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887; Order Denying Export Privileges

On October 13, 2020, in the U.S. District Court for the District of New Mexico, Genovevo Alvarez-Ronquillo (''Alvarez-Ronquillo'') was convicted of multiple counts of violating 18 U.S.C. 554(a). Specifically, Alvarez-Ronquillo was convicted of fraudulently and knowingly receiving, concealing, buying, selling, and facilitating the transportation, concealment, and sale of merchandise, specifically firearms from the United States to Mexico. As a result of his conviction, the Court sentenced Alvarez-Ronquillo to 78 months in prison, two years of supervised release, and a $2,400 special assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Alvarez-Ronquillo's conviction for violating 18 U.S.C. 554(a) and, as provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), has provided notice and opportunity for Alvarez-Ronquillo to make a written submission to BIS. 15 CFR 766.25.[2] BIS has received and considered a written submission from Alvarez-Ronquillo.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Alvarez-Ronquillo's export privileges under the Regulations for a period of 10 years from the date of Alvarez-Ronquillo's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Alvarez-

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

Ronquillo had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until October 13, 2030, Genovevo Alvarez-Ronquillo, with a last known address of Inmate Number: 04312–151, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession, or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed, or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed, or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, pursuant to section 1760(e) of ECRA (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, the Denied Person may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Denied Person and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 13, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06132 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Joseph Ormond Kirk, III, 13204 Saxby Court, Austin TX 78729, Order Denying Export Privileges

On October 5, 2021, in the U.S. District Court for the Southern District of Texas, Joseph Ormond Kirk, III. (''Kirk'') was convicted of violating 18 U.S.C. 554(a). Specifically, Kirk was convicted of smuggling and attempting to smuggle from the United States to Mexico, various firearms. As a result of his conviction, the Court sentenced Kirk to 18 months of confinement, two years of supervised release and a $100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Kirk's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Kirk to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Kirk.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Kirk's export privileges under the Regulations for a period of five years from the date of Kirk's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Kirk had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until October 5, 2026, Joseph Ormond Kirk, III., with a last known address of 13204 Saxby Court, Austin, TX 78729, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Kirk by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Kirk may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Kirk and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 5, 2026.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06129 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Erik Aguero, 8133 Barclay Street, Apt 209, Dallas, TX 75227–8675; Order Denying Export Privileges

On July 15, 2021, in the U.S. District Court for the Western District of Texas, Erik Aguero (''Aguero'') was convicted of violating 18 U.S.C. 554(a). Specifically, Aguero was convicted of smuggling, and attempting to smuggle from the United States to Mexico, various firearms defined under Category I of the United States Munitions List without the required license or written authorization. As a result of his conviction, the Court sentenced Aguero to 48 months of confinement with credit for time served, three years of supervised release, $100 assessment and a $1,000 criminal fine.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Aguero's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Aguero to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Aguero.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Aguero's export privileges under the Regulations for a period of 10 years from the date of Aguero's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Aguero had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until July 15, 2031, Erik Aguero, with a last known address of 8133 Barclay Street, Apt 209, Dallas, TX 75227–867, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Aguero by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Aguero may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Aguero and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until July 15, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06128 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Aiden Davidson, a/k/a Hamed Aliabadi, 1490 Elm Street, Manchester, NH 031016; Order Denying Export Privileges

On July 16, 2020, in the U.S. District Court for the District of New Hampshire, Aiden Davidson (a/k/a ''Hamed Aliabadi'' (''Davidson'') was convicted of violating 18 U.S.C. 554(a). Specifically, Davidson was convicted of smuggling goods, including motors, pumps, valves, displacement pumps and other items by falsely identifying the ultimate consignee of shipments. As a result of his conviction, the Court sentenced Davidson to 46 months of confinement, one year of supervised release and a $200 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Davidson's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Davidson to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Davidson.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Davidson's export privileges under the Regulations for a period of 10 years from the date of Davidson's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Davidson had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until July 16, 2030, Aiden Davidson, a/k/a Hamed Aliabadi, with a last known address of 1490 Elm Street, Manchester, NH 031016, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Davidson by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Davidson may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Davidson and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until July 16, 2030.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–06130 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–826]

White Grape Juice Concentrate From Argentina: Suspension of Countervailing Duty Investigation

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

SUMMARY: The U.S. Department of Commerce (Commerce) has suspended the countervailing duty investigation on white grape juice concentrate (WGJC) from Argentina. The basis for this action is an agreement between Commerce and the Government of Argentina (GOA), wherein the GOA has agreed not to provide any new or additional export or import substitution subsidies on the subject merchandise and has agreed to restrict the volume of direct or indirect exports to the United States of WGJC from all Argentine producers/exporters in order to eliminate completely the injurious effects of exports of this merchandise to the United States.

DATES: Applicable March 17, 2023.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2022, Commerce initiated a countervailing duty investigation under section 702 of the Tariff Act of 1930, as amended (the Act), to determine whether imports of WGJC from Argentina benefit from countervailable subsidies conferred by the GOA.[1] On May 16, 2022, the U.S. International Trade Commission (ITC) notified Commerce of its affirmative preliminary injury determination. On September 6, 2022, Commerce preliminarily determined that that countervailable subsidies are being provided to producers and exporters of WGJC from Argentina.[2] On September 23, 2022, Commerce aligned the final countervailing duty determination with the final antidumping duty determination.[3]

On December 21, 2022, Commerce issued a letter that formally opened consultations with the GOA with respect to a possible countervailing duty suspension agreement under section 704(c) of the Act.[4] Since that time, Commerce has continued to negotiate with the GOA and, in parallel, has continually consulted with the petitioner, Delano Growers Grape Products.

On February 13, 2023, Commerce and the GOA initialed a proposed agreement to suspend the countervailing duty investigation on WGJC from Argentina. Consistent with section 704(e) of the Act, Commerce notified the petitioner and the other parties, released the initialed draft agreement to the interested parties, and invited interested parties to provide written comments on the draft suspension agreement by no later than the close of business on March 13, 2023.[5] Consistent with 704(e)(1) of the Act, Commerce consulted with the petitioner concerning its intention to suspend the countervailing duty investigation on WGJC from Argentina. Commerce also notified the ITC of the proposed agreement,[6] consistent with 704(e)(1) of the Act, and released a draft memorandum explaining how the agreement will be implemented and enforced, and how the agreement will meet the applicable statutory requirements, consistent with section 704(e)(2) of the Act.[7] Commerce received comments from the petitioner and the mandatory respondents, Cepas Argentinas S.A. (Cepas) and Federación de Cooperativas Vitivinicolas Argentinas Coop. Ltda (Fecovita), by the March 13, 2023, deadline.[8] The GOA did not submit comments on the initialed draft agreement.

On March 17, 2023, Commerce and the GOA signed the Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate from Argentina (CVD Agreement), attached hereto.

[1] *See White Grape Juice Concentrate from the Republic of Argentina: Initiation of Countervailing Duty Investigation,* 87 FR 24945 (April 27, 2022).

[2] *See White Grape Juice Concentrate from Argentina: Preliminary Affirmative Countervailing Duty Determination,* 87 FR 54455 (September 6, 2022) (*Preliminary Determination*).

[3] *See White Grape Juice Concentrate from Argentina: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with the Final Antidumping Duty Determination; Correction,* 87 FR 58061 (September 23, 2022).

[4] *See* Commerce's Letter, ''Consultations on Potential Agreement Suspending the Countervailing Duty (CVD) Investigation on White Grape Juice Concentrate from Argentina,'' dated December 21, 2022.

[5] *See* Commerce's Letter, ''Draft Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate from Argentina,'' dated February 13, 2023.

[6] *See* Commerce's Letter, ''Initialed Draft Suspension Agreements,'' dated February 14, 2023.

[7] *See* Commerce's Letter, ''Draft Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate from Argentina: Assessment of Statutory Requirements Memorandum,'' dated February 14, 2023.

[8] *See* Petitioner's Letter, ''Comments in support of the Suspension Agreements in the Anti-dumping and Countervailing duty of White Grape Juice Concentrate (WGJC) from Argentina,'' dated March 13, 2023; *see also* Cepas and Fecovita's Letter, ''Comments on Draft Suspension Agreements on Behalf of Exporters of White Grape Juice Concentrate from Argentina,'' dated March 13, 2023.

Scope of Agreement

See Section I, Product Coverage, of the CVD Agreement.

Suspension of Investigation

Commerce consulted with the GOA and the petitioner and has considered the comments submitted by interested parties with respect to the draft suspension agreement. In accordance with section 704(c) of the Act, we have determined that extraordinary circumstances are present in this case, as defined by section 704(c)(4) of the Act. The CVD Agreement provides that: (1) the GOA will not provide any new or additional export or import substitution subsidies on the subject merchandise; and (2) the GOA will restrict the volume of direct or indirect exports to the United States of subject merchandise from all Argentine producers/exporters. We have also determined that the CVD Agreement is in the public interest and can be monitored effectively, as required under section 704(d) of the Act.

For the reasons outlined above, we find that the CVD Agreement meets the criteria of section 704(c) and (d) of the Act.

The CVD Agreement, signed March 17, 2023, is attached to this notice.

International Trade Commission

In accordance with section 704(f) of the Act, Commerce has notified the ITC of the CVD Agreement.

Suspension of Liquidation

The suspension of liquidation ordered in the *Preliminary Determination* shall continue to be in effect, subject to section 704(h)(3) of the Act.[9] Section 704(f)(2)(B) of the Act provides that Commerce may adjust the security required to reflect the effect of the CVD Agreement. Commerce has found that the CVD Agreement eliminates completely the injurious effects of imports and, thus, Commerce is adjusting the security required to zero. If there is no request for review of suspension under section 704(h) of the Act, or if the ITC conducts a review and finds that the injurious effect of imports of the subject merchandise is eliminated completely by the CVD Agreement, Commerce will terminate the suspension of liquidation of all entries of WGJC from Argentina and refund any cash deposits collected on entries of WGJC from Argentina consistent with section 704(h)(3) of the Act.

Notwithstanding the CVD Agreement, Commerce will continue the investigation if it receives such a request within 20 days after the date of publication of this notice in the **Federal Register**, in accordance with section 704(g) of the Act. Pursuant to Section III of the CVD Agreement, if the GOA requests continuation of the countervailing duty investigation, Commerce retains the right to modify or terminate this CVD Agreement. Commerce may also modify or terminate the CVD Agreement if Argentine producers/exporters accounting for a significant proportion of exports of WGJC from Argentina request continuation of the antidumping duty investigation on WGJC from Argentina.

Administrative Protective Order Access

The Administrative Protective Order (APO) Commerce granted in the investigation segment of this proceeding remains in place. While the investigation is suspended, parties subject to the APO may retain, but may not use, information received under that APO. All parties wishing access to business proprietary information submitted during the administration of the CVD Agreement must submit new APO applications in accordance with Commerce's regulations currently in effect.[10] An APO for the administration of the CVD Agreement will be placed on the record within five days of the date of publication of this notice in the **Federal Register**.

We are issuing and publishing this notice in accordance with section 704(f)(1)(A) of the Act and 19 CFR 351.208(g)(2).

Dated: March 17, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate From Argentina

Pursuant to the requirements of section 704(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.208, and in satisfaction of the requirements of those provisions, the U.S. Department of Commerce (Commerce) and the Government of Argentina (GOA) enter into this agreement suspending the countervailing duty investigation on White Grape Juice Concentrate (WGJC) from Argentina (CVD Agreement).

I. Product Coverage

The merchandise covered by this CVD Agreement is WGJC with a Brix level of 65 to 68, whether in frozen or non-frozen forms. WGJC is concentrated grape juice produced from grapes of the Vitis vinifera L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.,* Thompson Seedless), as well as several varietals of wine grapes (*e.g.,* Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this CVD Agreement covers WGJC regardless of whether it has been certified as kosher, organic, or organic kosher. The WGJC subject to this CVD Agreement consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included. The scope does not cover WGJC produced from grapes of the Vitis labrusca species (*e.g.,* Niagara). The products covered by this CVD Agreement are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

II. Definitions

For purposes of the CVD Agreement, the following definitions apply:

A. ''Anniversary Month'' means the month in which the CVD Agreement becomes effective.

B. ''Argentina'' means the customs territory of Argentina and foreign trade zones located within the territory of Argentina.

C. ''Consignment Sales'' means arrangements in which a seller (''consignor'') exports goods to an entity (''consignee'') in the United States, which takes custody and holds the goods without taking title to the goods. The consignee then either purchases the goods or sells the goods to a third party. The sale is considered to occur at the time at which the purchase (either by the consignee or the third party) occurs. The goods are not sold to the consignee or to the third-party buyer until after importation into the United States.

D. ''Date of Export'' means the date on which the product is exported from Argentina to the United States.

E. ''Effective Date'' means the date on which Commerce and the GOA sign the CVD Agreement.

F. ''Export License'' means the document issued by the GOA's export license issuing authority, pursuant to Section VI of the CVD Agreement.

G. ''Export Limit'' means the quantity of WGJC from Argentina permitted to be exported, based on the Date of Export, during a given Export Limit Period.

[9] *See Preliminary Determination,* 87 FR at 54456.

[10] *See* section 777(c)(1) of the Act; *see also* 19 CFR 351.103, 351.304, 351.305, and 351.306.

H. ''Export Limit Period'' means one of the following periods:

1. ''Initial Export Limit Period'' covers entries of WGJC entered, or withdrawn from warehouse for consumption, between the Effective Date and March 31, 2024.

2. ''Annual Export Limit Period'' covers entries of WGJC entered, or withdrawn from warehouse for consumption, in each subsequent April 1–March 31 period.

I. ''Interested Party'' means any person or entity that meets the definitions in section 771(9) of the Act.

J. ''Indirect Exports'' means exports of WGJC to the United States through one or more Third Countries, whether or not such exports are further processed, provided that the further processing does not result in a substantial transformation or a change in the country of origin, as determined by Commerce.

K. ''Third Country'' or ''Third Countries'' mean any country other than the United States or Argentina, including any customs territory or free trade zone administered, governed, or controlled by such country.

L. ''United States'' means the customs territory of the United States of America (the 50 States, the District of Columbia, and Puerto Rico) and foreign trade zones located within the territory of the United States.

M. ''Violation'' means noncompliance with the terms of the CVD Agreement, whether through an act or omission, except for noncompliance that is inconsequential or inadvertent and does not materially frustrate the purposes of the CVD Agreement.

N. ''White Grape Juice Concentrate,'' or ''WGJC,'' means the product described under Section I, ''Product Coverage,'' of the CVD Agreement.

Any term or phrase not defined by this section shall be defined using either a definition provided in the Act for that term or phrase, or the plain meaning of that term, as appropriate.

III. Suspension of Investigation

As of the Effective Date, in accordance with sections 704(c)(1) and (3) of the Act and 19 CFR 351.208, Commerce will suspend its countervailing duty investigation on WGJC from Argentina initiated on April 20, 2022, subject to the terms and provisions set out below.[11]

The GOA and the Argentine producers/exporters of WGJC from Argentina have indicated they will not exercise the right to request continuation of the countervailing duty or antidumping duty investigations, respectively, on WGJC from Argentina. If the GOA requests continuation of the countervailing duty investigation, Commerce retains the right to modify or terminate this CVD Agreement. Commerce may also modify or terminate the CVD Agreement if Argentine producers/exporters accounting for a significant proportion of exports of WGJC from Argentina request continuation of the antidumping duty investigation on WGJC from Argentina.

IV. Statutory Conditions for the CVD Agreement

In accordance with sections 704(c)(1) and (4) of the Act, Commerce has determined that extraordinary circumstances are present in this investigation because the suspension of the investigation will be more beneficial to the domestic industry than the continuation of the investigation and the investigation is complex.

In accordance with section 704(d)(1) of the Act, Commerce has determined that the suspension of the investigation is in the public interest and that effective monitoring of the CVD Agreement by the United States is practicable. Section 704(a)(2)(B) of the Act provides that the public interest includes the relative impact on consumer prices and the availability of supplies of the merchandise, the relative impact on the international economic interests of the United States, and the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry. Accordingly, if a domestic producer requests an administrative review of the status of, and compliance with, the CVD Agreement, Commerce will take these factors into account in conducting that review. If Commerce finds that the CVD Agreement is not working as intended in this regard, Commerce will explore all appropriate measures, including renegotiation of the terms of the CVD Agreement to resolve the problem or measures under section 751(d)(1) of the Act.

V. Export Limit

No WGJC from Argentina covered by the CVD Agreement, whether exported directly or indirectly from Argentina, shall be exported for entry into the United States unless, when cumulated with all prior entries of WGJC exported directly or indirectly from Argentina during the Export Limit Period in which the WGJC was exported, it does not exceed the applicable Export Limit set forth below. All exports of WGJC from Argentina that enter the United States will be counted against the Export Limit established for the applicable Export Limit Period. The GOA will ensure that no WGJC is exported directly from Argentina to the United States without an Export License and, to the best of its ability, will ensure that Argentine producers/exporters do not make indirect exports of WGJC to the United States through intermediary parties or Third Countries without an Export License.

A. The GOA shall ensure that no WGJC is exported from Argentina to the United States in a quantity that exceeds the Export Limits set forth below:

1. The Export Limit for the Initial Export Limit Period shall be 8,328,767 gallons.

2. The Export Limit for each subsequent Annual Export Limit Period shall be the Export Limit identified in Appendix I.

3. If, at any time, Commerce determines that the available supply of WGJC from Argentina is or will be insufficient to meet U.S. demand, Commerce may increase the Export Limit in this CVD Agreement from 8.0 million gallons up to any amount not exceeding 8.4 million gallons. In such a case, the consultations referred to in Section V.B below will not be mandatory.

B. Commerce and the GOA shall consult, as necessary, regarding whether the Export Limit should be modified to respond to changes in U.S. demand or changes in U.S. supply or global supply, except for the case provided for in Section V.A.3 above.

C. If any WGJC from Argentina is entered into the United States in excess of the Export Limit for the relevant Export Limit Period, Section IX ''Violations of the CVD Agreement'' applies.

VI. Implementation

A. Within 60 days of the Effective Date, the GOA shall establish an Export Limit licensing and enforcement program for all direct and indirect exports of WGJC from Argentina to the United States. After that date, the GOA will ensure that no WGJC is exported from Argentina to the United States without an Export License.

B. On or after 60 days from the Effective Date, presentation of a shipment-specific Export License is required as a condition for entry of WGJC from Argentina into the United States. Pursuant to 19 CFR 351.208(i), Commerce will instruct U.S. Customs and Border Protection (CBP) to prohibit

[11] *See White Grape Juice Concentrate from the Republic of Argentina: Initiation of Countervailing Duty Investigation,* 87 FR 24945 (April 27, 2022).

the entry of any WGJC from Argentina not accompanied by an Export License.

C. Export Licenses must contain the information identified in Appendix II. Within 30 days of the Effective Date, the GOA will provide Commerce with a template or model of the Export License to be implemented. Additional information may be included on the Export License or, if necessary, a separate page attached to the Export License. If the bills of lading for all of the shipments under an Export License establish that the actual imports into the United States under that license were less than the total volume listed on the license, the GOA shall notify Commerce in writing that the GOA intends to issue a new Export License in the same Export Limit Period authorizing additional exports equal in volume to the volume of the under-shipment(s).

D. Export Licenses will be issued sequentially, charged against the Export Limit for the relevant Export Limit Period, and reference any notice of the Export Limit allocation for the relevant Export Limit Period. Export Licenses shall remain valid for entry into the United States for 90 days. Commerce and the GOA may agree to an extension of the validity of the Export License in extraordinary circumstances.

E. The GOA will ensure compliance with all of the provisions of the CVD Agreement. To ensure such compliance, the GOA will take the following measures:

1. Ensure that no WGJC from Argentina is exported for entry into the United States during any Export Limit Period that exceeds the Export Limit for that Export Limit Period, including during the 60-day period referenced in Section VI.A in which the GOA is establishing its Export Limit licensing and enforcement program.

2. Require that applications for Export Licenses contain all of the information listed in Appendix II of the CVD Agreement.

3. As a condition of granting an Export License, the GOA shall require applicants for an Export License to:

a. Permit full verification of all information related to the administration of the CVD Agreement on an annual basis, or more frequently, as deemed necessary.

b. Certify that the applicant agrees not to export WGJC directly or indirectly to the United States that is not accompanied by an Export License issued pursuant to the CVD Agreement, consistent with Section VII.A.1 below.

c. Certify that the applicant has required its customers to agree not to ship WGJC to the United States without an Export License from the GOA, consistent with Section VII.A.2 below.

d. Certify that the applicant has required its importers to submit to CBP, with the entry summary package, a valid Export License issued by the GOA.

e. Certify that the applicant agrees not to sell WGJC from Argentina in the United States by means of Consignment Sales, as defined in Section II.C.

f. Agree to provide the information required in Section VIII below.

4. Refuse to issue an Export License to any applicant that does not permit full verification and reporting under the CVD Agreement of all of the information in the application.

5. Ensure compliance, as necessary, with all procedures established to effectuate the CVD Agreement by any official Argentine institution, chamber, or other authorized Argentine company, and any Argentine producer, exporter, broker, and trader of WGJC.

6. Impose strict measures, such as prohibition from participation in the Export Limit allocation allowed by the CVD Agreement, in the event that any Argentine company does not comply in full with the requirements established by the GOA pursuant to the CVD Agreement.

F. If any WGJC from Argentina is entered into the United States without a valid Export License, Section IX ''Violations of the CVD Agreement'' applies.

G. The GOA and Commerce shall hold consultations regarding the GOA's compliance with the provisions of this section, consistent with Section VIII.D.1 of the CVD Agreement.

VII. Anti-Circumvention

A. The GOA shall take all necessary measures to prevent circumvention of the CVD Agreement, including the following:

1. Require that as a condition of receiving an Export License under the CVD Agreement, any applicant for an Export License agrees not to export directly or indirectly to the United States WGJC that is not accompanied by an Export License issued pursuant to the CVD Agreement.

2. Require that as a condition of receiving an Export License under the CVD Agreement, any applicant for an Export License provide the GOA with a certification that it has required all of its customers to agree, as part of the terms of sale, not to export WGJC of Argentine origin to the United States, directly or indirectly, without an Export License.

3. Require that as a condition of receiving an Export License under the CVD Agreement, any applicant certify that it will not engage in any circumvention activities specified by the CVD Agreement. A circumvention activity may include, but is not limited to, exporting WGJC from Argentina, directly or indirectly, to the United States: (1) in excess of the Export Limit in any given Export Limit Period; (2) without an Export License; (3) in any bundling arrangement, swap or other exchange where such arrangement is designed to circumvent the basis of the CVD Agreement; or (4) with a Brix level from over 68 up to and including 70.

B. If the GOA receives an allegation that circumvention has occurred, including an allegation from Commerce, the GOA shall promptly initiate an inquiry, normally complete the inquiry within 45 days, and notify Commerce of the results of the inquiry within 15 days after the conclusion of the inquiry.

C. If the GOA determines that an Argentine company has participated in a transaction circumventing the CVD Agreement, the GOA shall impose penalties upon such company including, but not limited to, denial of access to an Export License for WGJC under the CVD Agreement.

D. If the GOA determines that an Argentine company has participated in the circumvention of the CVD Agreement, the GOA shall count against the Export Limit for the Export Limit Period in which the circumvention took place an amount of WGJC equivalent to the volume involved in such circumvention and shall immediately notify Commerce of the volume deducted. If a sufficient amount is not available in the current Export Limit Period, then the remaining amount shall be deducted from the subsequent Export Limit Period or Periods.

E. Commerce will investigate any allegations of circumvention which are brought to its attention both by asking the GOA to investigate such allegations and by itself gathering relevant information. The GOA will respond to requests from Commerce for information relating to such allegations. In distinguishing normal arrangements from those which would result in the circumvention of a given Export Limit established by the CVD Agreement, Commerce will take the following factors into account, as deemed appropriate:

1. Existence of any verbal or written agreement leading to circumvention of the CVD Agreement;

2. Existence and function of any subsidiaries or affiliates of the parties involved;

3. Existence and function of any historical and traditional patterns of production and trade among the parties

involved, and any deviation from such patterns;

4. Existence of any payments unaccounted for by previous or subsequent deliveries, or any payments to one party for WGJC delivered or swapped by another party;

5. Sequence and timing of the arrangements; and

6. Any other information relevant to the transaction or circumstances.

F. The GOA and Commerce shall hold consultations regarding anti-circumvention as provided in Section VIII.D.3 of the CVD Agreement.

VIII. Monitoring of the CVD Agreement

A. Import Monitoring

1. Commerce will monitor entries of WGJC from Argentina to ensure compliance with Section V of the CVD Agreement.

2. Commerce will review publicly available data and other official import data, including, as appropriate, records maintained by CBP, to determine whether there have been imports that are inconsistent with the provisions of the CVD Agreement.

3. Commerce will review, as appropriate, data it receives through any data exchange program between U.S. and Argentine government agencies, to determine whether there have been imports that are inconsistent with the provisions of the CVD Agreement.

B. Compliance Monitoring

1. Within 60 days of the Effective Date, the GOA shall notify Commerce of its allocation for the Initial Export Limit Period and the first Annual Export Limit Period, including the allocation recipient(s) and the volume granted to the recipient(s). For any subsequent Annual Export Limit Period, the GOA shall inform Commerce of any changes in the volume allocated to an individual recipient within 30 days of the date on which such changes become effective.

2. The GOA shall collect from its Export Limit licensing and enforcement program and report to Commerce all direct and, to the best of its ability, indirect exports of WGJC from Argentina to the United States. During the 60-day period referenced in Section VI.A in which the GOA is establishing its Export Limit Licensing and enforcement program, the GOA shall collect from alternate sources, such as its official export statistics, all direct and, to the best of its ability, indirect exports of WGJC from Argentina to the United States. Reports shall be provided on a monthly basis in the format specified in Appendix III, except for the provisional reports provided during the 60-day period referenced in Section VI.A,[12] and will be provided no later than 60 days following the end of each month, beginning on June 29, 2023 (for the period from the Effective Date through April 30, 2023). If requested, the GOA shall collect and provide to Commerce information on the aggregate quantity and value of exports of WGJC to the United States and/or Third Countries for a designated period. The information shall be entitled to proprietary treatment under Commerce's rules for handling business proprietary information.

3. Commerce has the authority to verify at any time all information related to the administration of the CVD Agreement, including all information relating to potential circumvention of the CVD Agreement. Commerce will conduct verifications at locations and times it deems appropriate to ensure compliance with the terms of the CVD Agreement. If Commerce proposes to conduct on-site review or inspection, it will normally provide 30 days' notice.

4. The GOA and Commerce recognize that the effective monitoring of the CVD Agreement may require the GOA to provide information in addition to that identified in the CVD Agreement. Accordingly, after consulting with the GOA, Commerce may request additional reporting requirements consistent with U.S. law and regulations during the course of the CVD Agreement. The GOA shall also collect and provide to Commerce, generally within 60 days of the request, any such additional information requested by Commerce.

5. Commerce may initiate administrative reviews under section 751(a) of the Act in the month immediately following the Anniversary Month, upon request, or upon its own initiative, to ensure that exports of WGJC from Argentina satisfy the requirements of sections 704(c)(1) and (3) of the Act. Commerce may conduct administrative reviews under sections 751(b) and (c), and 781 of the Act, as appropriate. Commerce may perform verifications pursuant to administrative reviews conducted under section 751 of the Act.

C. Rejection of Submissions

Commerce may reject: (1) any information submitted after the deadlines set forth in the CVD Agreement; (2) any submission that does not comply with the filing, format, translation, service, and certification of documents requirements under 19 CFR 351.303; (3) submissions that do not comply with the procedures for establishing business proprietary treatment under 19 CFR 351.304; and (4) submissions that do not comply with any other applicable regulations, as appropriate. If information is not submitted in a complete and timely fashion or is not fully verifiable, Commerce may use facts otherwise available for the basis of its decision, as it determines appropriate, consistent with section 776 of the Act.

D. Consultations

1. Implementation Consultations

a. If the GOA notifies Commerce in writing, or Commerce otherwise determines, that the GOA for any reason has not satisfied the implementation obligations in Section VI of the CVD Agreement, Commerce will consult with the GOA for a period of up to 60 days to ensure that the GOA complies with those obligations within those 60 days.

b. If Commerce is not satisfied at the conclusion of the consultation period that exports of WGJC from Argentina are entering the United States in amounts consistent with the CVD Agreement, or entered with a valid Export License, Commerce may evaluate under section 351.209 of its regulations, or section 751 of the Act, whether the CVD Agreement is being violated, as defined in Section IX of the CVD Agreement.

2. Compliance Consultations

a. When Commerce identifies, through import or compliance monitoring or otherwise, that exports of WGJC from Argentina may have entered the United States in volumes inconsistent with Section V of the CVD Agreement, or without an Export License, Commerce will notify the GOA. Commerce will consult with the GOA for a period of up to 60 days to establish a factual basis regarding exports that may be inconsistent with Section V of the CVD Agreement.

b. During the consultation period, Commerce will examine any information that it develops, or which is submitted, including information requested by Commerce, under any provision of the CVD Agreement.

c. If Commerce is not satisfied at the conclusion of the consultation period that exports of WGJC from Argentina are entering the United States in amounts consistent with the CVD Agreement, or entered with a valid Export License, Commerce may evaluate under section 351.209 of its regulations, or section 751 of the Act whether the CVD Agreement

[12] In general, the provisional reports provided by the GOA during this period will contain a listing of exports of WGJC from Argentina, with the associated quantities, during the relevant reporting period.

is being violated, as defined in Section IX of the CVD Agreement.

3. Anti-Circumvention Consultations

a. If the GOA or Commerce determines that a company from a Third Country has circumvented the CVD Agreement and Commerce and the GOA agree that no Argentine company participated in or had knowledge of such activities, then Commerce and the GOA shall hold consultations for the purpose of sharing information regarding such circumvention and reaching mutual agreement on the appropriate measures to be taken to eliminate such circumvention. If Commerce and the GOA are unable to reach mutual agreement on the appropriate measures to be taken to eliminate such circumvention within 45 days, then Commerce may take appropriate measures, such as deducting the volume of WGJC involved in such circumvention from the Export Limit for the current Export Limit Period (or, if necessary, a subsequent Annual Export Limit Period). Before taking such measures, Commerce will notify the GOA of the facts and reasons constituting the basis for Commerce's intended action and will afford the GOA 15 days in which to comment. Commerce will enter its determinations regarding circumvention into the record of the CVD Agreement. Alternatively, Commerce may evaluate under section 351.209 of its regulations, or section 751 of the Act, whether the CVD Agreement is being violated, as defined in Section IX of the CVD Agreement.

b. In the event that Commerce determines that an Argentine company has participated in a transaction circumventing the CVD Agreement, Commerce and the GOA shall hold consultations for the purpose of sharing information regarding such circumvention and reaching mutual agreement on an appropriate resolution of the problem. If Commerce and the GOA are unable to reach mutual agreement within 60 days, Commerce may take appropriate measures, such as deducting the volume of WGJC involved in such circumvention from the Export Limit for the current Export Limit Period (or, if necessary, a subsequent Annual Export Limit Period) or instructing CBP to deny entry to any WGJC from Argentina sold by the company found to be circumventing the CVD Agreement. Before taking such measures, Commerce will notify the GOA of the basis for Commerce's intended action and the GOA will comment within 30 days. Commerce will enter its determinations regarding circumvention into the record of the CVD Agreement. Alternatively, Commerce may evaluate under section 351.209 of its regulations, or section 751 of the Act, whether the CVD Agreement is being violated, as defined in Section IX of the CVD Agreement.

4. Operations Consultations

Commerce will consult with the GOA regarding the operation of the CVD Agreement. Commerce or the GOA may request such consultations at any time, including consultations to revise the Export Limit.

IX. Violations of the CVD Agreement

A. If Commerce determines that there has been a Violation of the CVD Agreement or that the CVD Agreement no longer meets the requirements of sections 704(c) or (d) of the Act, Commerce shall take action it determines appropriate under section 704(i) of the Act and section 351.209 of Commerce's regulations.

B. Examples of activities which Commerce may deem to be Violations of the CVD Agreement include:

1. Direct or indirect exports of WGJC from Argentina to the United States in amounts greater than the Export Limit established in the relevant Export Limit Period.

2. A significant amount (*i.e.,* five percent or more of the Export Limit for the relevant Export Limit Period) of WGJC from Argentina exported to the United States without an Export License, or entered into the United States without a valid Export License, that is not reported by the GOA to Commerce.

3. Any other material violation or breach, as determined by Commerce.

X. Disclosure and Comment

This section provides the terms for disclosure and comment following consultations or during segments of the proceeding not involving a review under section 751 of the Act.

A. Commerce may make available to representatives of each Interested Party, pursuant to and consistent with 19 CFR 351.304–351.306, any business proprietary information submitted to and/or collected by Commerce pursuant to the CVD Agreement, as well as the results of Commerce's analysis of that information.

B. The GOA and any other Interested Party shall file all communications and other submissions via Commerce's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov* and to all parties at the following address: U.S. Department of Commerce, Central Records Unit, Room B8024, 1401 Constitution Ave, NW, Washington, DC 20230.

Such communications and submissions shall be filed consistent with the requirements provided in 19 CFR 351.303.

XI. Duration of the CVD Agreement

A. This CVD Agreement has no scheduled termination date. Termination of the suspended investigation shall be considered in accordance with the five-year review provisions of section 751(c) of the Act and section 351.218 of Commerce's regulations.

B. Commerce or the GOA may withdraw from this CVD Agreement at any time. Termination of the CVD Agreement shall be effective no later than 60 days after the date the written notice of withdrawal is provided to the GOA or Commerce, respectively.

C. Upon termination of the CVD Agreement, Commerce shall follow the procedures outlined in section 704(i)(1) of the Act.

XII. Other Provisions

A. By entering into the CVD Agreement, the GOA does not admit that exports of WGJC from Argentina are having or have had an injurious effect on WGJC producers in the United States or that the GOA has provided countervailable subsidies to WGJC producers and exporters in Argentina. The GOA agrees that it will not provide any new or additional export or import substitution subsidies on WGJC from Argentina.

B. As of the Effective Date, Commerce shall instruct CBP to refund any cash deposits collected as a result of the countervailing duty investigation on WGJC from Argentina. Commerce shall instruct CBP to terminate the suspension of liquidation consistent with section 704(f)(2)(B) of the Act.

For the U.S. Department of Commerce:

Ryan Majerus
Deputy Assistant Secretary
for Policy & Negotiations
Enforcement and Compliance

March 17, 2023
Date

For the Government of Argentina:

Cecilia Todesca Bocco
Secretary for International Economic Relations
Ministry of Foreign Affairs, International Trade and Worship

March 17, 2023
Date

Appendix I—Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate From Argentina—Export Limit

Product	Export limit in gallons per annual export limit period
WGJC from Argentina	8.0 million gallons.

The parties agree to the following formulae for the conversions between metric tons and gallons:

→ 1 metric ton (MT) of 65–68 Brix WGJC = 198 gallons

→ 1 gallon of 65–68 Brix WGJC = 0.00505 MT

Appendix II—Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate From Argentina—Information To Be Contained in Export Licenses

The GOA will issue shipment-specific Export Licenses to exporters of WGJC from Argentina that shall contain the following fields:

1. Export License Number: Indicate the Export License number applicable to the shipment.
2. Name of the Licensee: Indicate the name of the Licensee, and the name of the producer, if different from the Licensee.
3. Name of the Exporter: Indicate the name of the broker/trader or producer, as applicable.
4. Complete Description of Merchandise: Include the applicable United States Harmonized Tariff Schedule category and Brix level, if known.
5. Quantity: Indicate in gallons.
6. Quantity: Indicate in Metric Tons (MT)
7. Date of Export License: Date that the Export License is issued.
8. Date of Expiration of the Export License: Indicate the date that the Export License expires.
9. Contract Identification Information: Indicate the contract identification information with which the license is associated, if known.
10. Importer's Number.
11. Port of Export: Indicate the port of export.
12. Export Limit Period for which the Export License is valid.
13. Allocation to Producer/Exporter: Indicate the total amount of the Export Limit allocated to the individual producer/exporter during the relevant Export Limit Period.
14. Allocation Remaining: Indicate the remaining amount available under the allocation to the individual producer/exporter during the relevant Export Limit Period.

Appendix III—Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate From Argentina—Information on Exports of WGJC From Argentina

In accordance with the established format, the GOA's license issuing authority shall collect and provide to Commerce all information necessary to ensure compliance with the CVD Agreement. This information will be provided to Commerce on monthly basis. The GOA's license issuing authority will collect and maintain data on exports to the United States on a continuous basis. Data for exports to countries other than the United States will be reported upon request. The GOA's license issuing authority may provide a narrative explanation to substantiate all data collected in accordance with the following formats.

The GOA's license issuing authority will provide a report or summary regarding all Export Licenses issued to entities, which shall contain the following information unless the information is unknown to the licensing authority and the licensee. Upon request, the GOA will provide copies of any Export License to Commerce.

1. Export License Number: Indicate the Export License number for the shipment.
2. Name of the Licensee: Indicate the name of the Licensee, and the name of the producer, if different from the Licensee.
3. Name of the Exporter: Indicate the name of the broker/trader or exporter, as applicable.
4. Complete Description of Merchandise: Include the applicable United States Harmonized Tariff Schedule category and Brix level, if known.
5. Quantity: Indicate in gallons.
6. Quantity: Indicate in Metric Tons (MT)
7. Date of Export License: Date that the Export License is issued.
8. Date of Expiration of the Export License: Indicate the date that the Export License expires.
9. Port of Export: Indicate the port of export.
10. Date of Export: Indicate the date of export of the WGJC from Argentina to the United States.
11. Allocation to producer/exporter: Indicate the total amount of the Export Limit allocated to the individual producer/exporter during the relevant Export Limit Period.
12. Allocation Remaining: Indicate the remaining amount available under the allocation to the individual producer/exporter during the relevant Export Limit Period.
13. Contract Identification Information: Indicate the contract identification information with which the license is associated, if known.
14. Importer's Number.

[FR Doc. 2023–06124 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–151]

Tin Mill Products From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Genevieve Coen or Melissa Porpotage, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3251 or (202) 482–1413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 2023, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of tin mill products from the People's Republic of China (China).[1] Currently, the preliminary determination is due no later than April 13, 2023.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act) requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny it.

On March 17, 2023, the petitioners submitted a timely request that

[1] *See Tin Mill Products from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 88 FR 9476 (February 14, 2023).

Commerce postpone the preliminary CVD determination.[2] The petitioners stated that additional time is needed to collect the necessary information for the preliminary determination.[3]

In accordance with 19 CFR 351.205(e), the petitioners have stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* June 20, 2023.[4] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 20, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–06114 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* Petitioners' Letter, ''Petitioner's Request for Extension of Preliminary Determination Deadline,'' dated March 17, 2023. The petitioners are Cleveland-Cliffs Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

[3] *Id.*

[4] Postponing the preliminary determination to 130 days after initiation would place the deadline on Saturday, June 17, 2023, and the following Monday, June 19, 2023 is a Federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–825]

White Grape Juice Concentrate From Argentina: Suspension of Antidumping Duty Investigation

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

SUMMARY: The U.S. Department of Commerce (Commerce) has suspended the antidumping duty investigation on white grape juice concentrate (WGJC) from Argentina. The basis for this action is an agreement between Commerce and signatory producers/exporters accounting for substantially all imports of WGJC from Argentina, wherein each signatory producer/exporter has agreed to revise its prices to eliminate completely the injurious effects of exports of the subject merchandise to the United States.

DATES: Applicable March 17, 2023.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2022, Commerce initiated an antidumping duty investigation under section 732 of the Tariff Act of 1930, as amended (the Act), to determine whether imports of WGCJ from Argentina are being, or are likely to be, sold in the United States at less than fair value (LTFV).[1] On May 16, 2022, the U.S. International Trade Commission (ITC) notified Commerce of its affirmative preliminary injury determination. On November 3, 2022, Commerce preliminarily determined that WGCJ from Argentina is being, or is likely to be, sold in the United States at LTFV, as provided in section 733 of the Act, and postponed the final determination in the investigation until no later than 135 days after the date of publication of the *Preliminary Determination* in the **Federal Register**.[2]

On December 21, 2022, Commerce issued a letter that formally opened consultations with Federación de Cooperativas Vitivinicolas Argentinas Coop. Ltda (Fecovita) and any other producers/exporters of WGJC from Argentina with respect to a possible antidumping duty suspension agreement under section 734(c) of the Act.[3] Since that time, Commerce has continued to negotiate with representatives of the Argentine producers/exporters and, in parallel, has continually consulted with the petitioner, Delano Growers Grape Products.

On February 13, 2023, Commerce and representatives of certain producers/exporters initialed a proposed agreement to suspend the antidumping duty investigation on WGJC from Argentina. Consistent with section 734(e) of the Act, Commerce notified the petitioner and the other parties, released the initialed draft agreement to the interested parties, and invited interested parties to provide written comments on the draft suspension agreement by no later than the close of business on March 13, 2023.[4] Consistent with 734(e)(1) of the Act, Commerce consulted with the petitioner concerning its intention to suspend the antidumping duty investigation on WGJC from Argentina. Commerce also notified the ITC of the proposed agreement,[5] consistent with 734(e)(1) of the Act, and released a draft statutory memorandum explaining how the agreement will be implemented and enforced, and how the agreement will meet the applicable statutory requirements, consistent with section 734(e)(2) of the Act.[6] Commerce received comments from the petitioner and the mandatory respondents, Fecovita and Cepas Argentinas S.A. (Cepas), by the March 13, 2023, deadline.[7]

On March 17, 2023, Commerce and representatives of the signatory producers/exporters accounting for substantially all imports of WGJC from Argentina signed the Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate from Argentina (AD Agreement), attached hereto.

Scope of Agreement

See Section I, Product Coverage, of the AD Agreement.

[1] *See White Grape Juice Concentrate from Argentina: Initiation of Less-Than-Fair-Value Investigation,* 87 FR 24934 (April 27, 2022).

[2] *See White Grape Juice Concentrate from Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 66269 (November 3, 2022) (*Preliminary Determination*).

[3] *See* Commerce's Letter, ''Consultations on Potential Agreement Suspending the Antidumping Duty (AD) Investigation on White Grape Juice Concentrate from Argentina,'' dated December 21, 2022.

[4] *See* Commerce's Letter, ''Draft Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate from Argentina,'' dated February 13, 2023.

[5] *See* Commerce's Letter, ''Initialed Draft Suspension Agreements,'' dated February 14, 2023.

[6] *See* Commerce's Letter, ''Draft Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate from Argentina: Assessment of Statutory Requirements Memorandum,'' dated February 14, 2023.

[7] *See* Petitioner's Letter, ''Comments in support of the Suspension Agreements in the Anti-dumping and Countervailing duty of White Grape Juice Concentrate (WGJC) from Argentina,'' dated March 13, 2023; *see also* Cepas and Fecovita's Letter, ''Comments on Draft Suspension Agreements on Behalf of Exporters of White Grape Juice Concentrate from Argentina,'' dated March 13, 2023.

Suspension of Investigation

Commerce consulted with the Argentine WGJC producers/exporters and the petitioner and has considered the comments submitted by interested parties with respect to the draft suspension agreement. In accordance with section 734(c) of the Act, we have determined that extraordinary circumstances are present in this case, as defined by section 734(c)(2) of the Act.

The AD Agreement provides that, in accordance with 734(c)(1) of the Act, the subject merchandise will be sold at or above the established reference price and, for each entry of each exporter, the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 percent of the weighted-average amount by which the estimated normal value exceeded the export price (or the constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation. We have determined that the AD Agreement will eliminate completely the injurious effect of exports to the United States of the subject merchandise and prevent the suppression or undercutting of price levels of domestic WGJC by imports of that merchandise from Argentina, as required by section 734(c)(1) of the Act. We have also determined that the AD Agreement is in the public interest and can be monitored effectively, as required under section 734(d) of the Act.

For the reasons outlined above, we find that the AD Agreement meets the criteria of section 734(c) and (d) of the Act.

The AD Agreement, signed March 17, 2023, is attached to this notice.

International Trade Commission

In accordance with section 734(f) of the Act, Commerce has notified the ITC of the AD Agreement.

Suspension of Liquidation

The suspension of liquidation ordered in the *Preliminary Determination* shall continue to be in effect, subject to section 734(h)(3) of the Act.[8] Section 734(f)(2)(B) of the Act provides that Commerce may adjust the security required to reflect the effect of the AD Agreement. Commerce has found that the AD Agreement eliminates completely the injurious effects of imports and, thus, Commerce is adjusting the security required from signatory producers/exporters to zero. The security rates in effect for imports from any non-signatory producers/exporters remain as published in the *Preliminary Determination.* If there is no request for review of suspension under section 734(h) of the Act, or if the ITC conducts such a review and finds that the injurious effect of imports of the subject merchandise is eliminated completely by the AD Agreement, Commerce will terminate the suspension of liquidation of all entries of WGJC from Argentina and refund any cash deposits collected on entries of WGJC from Argentina consistent with section 734(h)(3) of the Act.

Notwithstanding the AD Agreement, Commerce will continue the investigation if it receives such a request within 20 days after the date of publication of this notice in the *Federal Register*, in accordance with section 734(g) of the Act. Pursuant to Section III of the AD Agreement, if Argentine producers/exporters accounting for a significant proportion of exports of WGJC from Argentina request continuation of the antidumping duty investigation, Commerce retains the right to modify or terminate this AD Agreement. Commerce may also modify or terminate the AD Agreement if the Government of Argentina requests continuation of the countervailing duty investigation on WGJC from Argentina.

Administrative Protective Order Access

The Administrative Protective Order (APO) Commerce granted in the investigation segment of this proceeding remains in place. While the investigation is suspended, parties subject to the APO may retain, but may not use, information received under that APO. All parties wishing access to business proprietary information submitted during the administration of the AD Agreement must submit new APO applications in accordance with Commerce's regulations currently in effect.[9] An APO for the administration of the AD Agreement will be placed on the record within five days of the date of publication of this notice in the **Federal Register**.

We are issuing and publishing this notice in accordance with section 734(f)(1)(A) of the Act and 19 CFR 351.208(g)(2).

Dated: March 17, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate From Argentina

Pursuant to the requirements of section 734(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.208, and in satisfaction of the requirements of those provisions, the U.S. Department of Commerce (Commerce) and the signatory producers and exporters of White Grape Juice Concentrate (WGJC) from Argentina (collectively, the Signatories) enter into this agreement suspending the antidumping duty investigation on WGJC from Argentina (AD Agreement).

I. Product Coverage

The merchandise covered by this AD Agreement is WGJC with a Brix level of 65 to 68, whether in frozen or non-frozen forms. WGJC is concentrated grape juice produced from grapes of the Vitis vinifera L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.,* Thompson Seedless), as well as several varietals of wine grapes (*e.g.,* Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this AD Agreement covers WGJC regardless of whether it has been certified as kosher, organic, or organic kosher. The WGJC subject to this AD Agreement consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included. The scope does not cover WGJC produced from grapes of the Vitis labrusca species (*e.g.,* Niagara). The products covered by this AD Agreement are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

II. Definitions

For purposes of the AD Agreement, the following definitions apply:

A. ''Adjustment Mechanism'' is the means by which the Reference Price(s) may change as described in Appendix I.

B. ''Anniversary Month'' means the month in which the AD Agreement becomes effective.

C. ''Argentina'' means the customs territory of Argentina and foreign trade

[8] *See Preliminary Determination,* 87 FR at 66271.

[9] *See* section 777(c)(1) of the Act; *see also* 19 CFR 351.103, 351.304, 351.305, and 351.306.

zones located within the territory of Argentina.

D. ''Consignment Sales'' means arrangements in which a seller (''consignor'') exports goods to an entity (''consignee'') in the United States, which takes custody and holds the goods without taking title to the goods. The consignee then either purchases the goods or sells the goods to a third party. The sale is considered to occur at the time at which the purchase (either by the consignee or the third party) occurs. The goods are not sold to the consignee or to the third-party buyer until after importation into the United States.

E. ''Date of Export'' means the date on which the product is exported from Argentina to the United States.

F. ''Effective Date'' means the date on which Commerce and the Signatories sign the AD Agreement.

G. Quarter—means the relevant calendar quarter, consistent with the following schedule:

- First Quarter—April 1–June 30
- Second Quarter—July 1–September 30
- Third Quarter—October 1–December 31
- Fourth Quarter—January 1–March 31

H. ''Interested Party'' means any person or entity that meets the definitions provided in section 771(9) of the Act.

I. ''Reference Price'' means the minimum price at which merchandise subject to this AD Agreement can be sold in the United States.

J. ''Substantially all'' of the subject merchandise means not less than 85 percent by value or volume.

K. ''United States'' means the customs territory of the United States of America (the 50 States, the District of Columbia, and Puerto Rico) and foreign trade zones located within the territory of the United States.

L. ''Violation'' means noncompliance with the terms of the AD Agreement, whether through an act or omission, except for noncompliance that is inconsequential or inadvertent and does not materially frustrate the purposes of the AD Agreement.

M. ''White Grape Juice Concentrate,'' or ''WGJC,'' means the product described in Section I, ''Product Coverage,'' of the AD Agreement.

Any term or phrase not defined by this section shall be defined using either a definition provided in the Act for that term or phrase, or the plain meaning of that term, as appropriate.

III. Suspension of Investigation

As of the Effective Date, in accordance with section 734(c) of the Act and 19 CFR 351.208, Commerce will suspend its antidumping duty investigation on WGJC from Argentina initiated on April 20, 2022, subject to the terms and provisions set out below.[10]

The Argentine producers/exporters of WGJC from Argentina and the Government of Argentina have indicated they will not exercise the right to request continuation of the antidumping duty or countervailing duty investigations, respectively, on WGJC from Argentina. If Argentine producers/exporters accounting for a significant proportion of exports of WGJC from Argentina request continuation of the antidumping duty investigation, Commerce retains the right to modify or terminate this AD Agreement. Commerce may also modify or terminate the AD Agreement if the Government of Argentina requests continuation of the countervailing duty investigation on WGJC from Argentina.

IV. U.S. Import Coverage

In accordance with section 734(c)(1) of the Act, the Signatories are the producers and exporters in Argentina which account for substantially all of the subject merchandise imported into the United States, within the meaning of 19 CFR 351.208(c). Commerce may at any time during the period of the AD Agreement require additional producers/exporters in Argentina to accede to the AD Agreement to ensure that not less than substantially all imports into the United States are subject to this AD Agreement.

V. Statutory Conditions for the AD Agreement

In accordance with section 734(c)(2) of the Act, Commerce has determined that extraordinary circumstances are present in this investigation because the suspension of the investigation will be more beneficial to the domestic industry than the continuation of the investigation and the investigation is complex.

In accordance with section 734(d) of the Act, Commerce has determined that the suspension of the investigation is in the public interest and that effective monitoring of the AD Agreement by the United States is practicable. Section 734(a)(2)(B) of the Act provides that the public interest includes the relative impact on consumer prices and the availability of supplies of the merchandise, the relative impact on the international economic interests of the United States, and the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry. Accordingly, if a domestic producer requests an administrative review of the status of, and compliance with, the AD Agreement, Commerce will take these factors into account in conducting that review. If Commerce finds that the AD Agreement is not working as intended in this regard, Commerce will explore all appropriate measures, including renegotiation of the terms of the AD Agreement to resolve the problem or measures under section 751(d)(1) of the Act.

VI. Price Undertaking

Each Signatory individually agrees that, to prevent price suppression or undercutting, it will not sell in the United States, on or after the Effective Date, WGJC at prices that are less than the Reference Prices, as established in Appendix I.

Each Signatory individually agrees that for each entry the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 percent of the weighted-average amount by which the estimated normal value exceeded the export price (or constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation, in accordance with the Act and Commerce's regulations and procedures, including but not limited to the calculation methodologies described in Appendix II.

VII. Monitoring of the AD Agreement

A. Import Monitoring

1. Commerce will monitor entries of WGJC from Argentina to ensure compliance with Section VI of this AD Agreement.

2. Commerce will review publicly available data and other official import data, including, as appropriate, records maintained by U.S. Customs and Border Protection (CBP), to determine whether there have been imports that are inconsistent with the provisions of this AD Agreement.

B. Compliance Monitoring

1. Commerce may require, and each Signatory agrees to provide confirmation through documentation provided to Commerce, that the price received on any sale subject to this AD Agreement was not less than the established Reference Prices. Commerce may require that such documentation be provided and be subject to verification.

[10] *See White Grape Juice Concentrate from Argentina: Initiation of Less-Than-Fair-Value Investigation,* 87 FR 24934 (April 27, 2022).

2. Commerce may require, and each Signatory agrees to report in the prescribed format and using the prescribed method of data compilation, each sale of WGJC, either directly or indirectly to unrelated purchasers in the United States, including each adjustment applicable to each sale, as specified by Commerce. The information to be reported may include, for example, sales value (Ex Works), unit price, invoice price, date of sale, sales order number(s), importer of record, trading company, customer, customer relationship, destination, as well as any other information deemed by Commerce to be relevant. Each Signatory agrees to permit review and on-site inspection of all information deemed necessary by Commerce to verify the reported information.

3. Commerce may initiate administrative reviews under section 751(a) of the Act in the month immediately following the Anniversary Month, upon request or upon its own initiative, to ensure that exports of WGJC from Argentina satisfy the requirements of sections 734(c)(1)(A) and (B) of the Act. Commerce may conduct administrative reviews under sections 751(b) and (c) of the Act, and reviews regarding prevention of circumvention under section 781 of the Act, as appropriate. Commerce may perform verifications pursuant to administrative reviews conducted under section 751 of the Act.

4. At any time it deems appropriate, and without prior notice, Commerce will conduct verifications of persons or entities handling Signatory merchandise to determine whether they are selling Signatory merchandise in accordance with the terms of this AD Agreement. Commerce will also conduct verifications at locations and times it deems appropriate to ensure compliance with the terms of this AD Agreement.

C. Shipping and Other Arrangements

1. The Reference Prices are expressed in U.S. Dollars ($) per Gallon, for WGJC from Argentina, in accordance with Appendix I. All Reference Prices are on the basis of Ex Works Argentina (*i.e.,* from the Argentine production facility, packed for shipment to the United States) (for example, Ex Works Mendoza or Ex Works San Juan, Argentina). The Reference Prices include all expenses for WGJC incurred prior to shipment from the Argentine production facility. In accordance with the terms of sale, the final sales price to the first unaffiliated U.S. customer for all WGJC from Argentina exported directly, or indirectly through a third country, to the United States shall include all relevant movement and handling expenses beyond the point of departure from the Argentine production facility and in excess of the Reference Price, *i.e.,* the Ex Works Argentina price. The Reference Prices may be adjusted by means of the Adjustment Mechanism described in Appendix I.

2. Signatories agree not to sell WGJC from Argentina in the United States by means of Consignment Sales, as defined in Section II.D.

3. Signatories agree not to take any action that would circumvent or otherwise evade, or defeat the purpose of, this AD Agreement.[11] Signatories agree to undertake any measures that will help to prevent circumvention.

4. Not later than 30 days after the end of each Quarter, each Signatory will submit a written statement to Commerce certifying that all sales during the most recently completed Quarter were at net prices, after rebates, discounts, or other adjustments, at or above the Reference Prices in effect and were not part of or related to any act or practice which would have the effect of hiding the real price of the WGJC being sold. Further, each Signatory will certify in this same statement that all sales made during the relevant Quarter were not part of or related to any bundling arrangement, discounts/free goods/financing package, swap or other exchange where such arrangement is designed to circumvent the basis of the AD Agreement. Each Signatory will also include the quantity and value of sales and, separately, of shipments during the most recently completed Quarter. Each Signatory that did not export WGJC to the United States during any given Quarter will submit a written statement to Commerce certifying that it made no sales to the United States during the most recently completed Quarter. Each Signatory agrees to permit full verification of its certification as Commerce deems necessary. Failure to provide a quarterly certification may be considered a Violation of the AD Agreement.

D. Rejection of Submissions

Commerce may reject: (1) any information submitted after the deadlines set forth in this AD Agreement; (2) any submission that does not comply with the filing, format, translation, service, and certification of documents requirements under 19 CFR 351.303; (3) submissions that do not comply with the procedures for establishing business proprietary treatment under 19 CFR 351.304; and (4) submissions that do not comply with any other applicable regulations, as appropriate. If information is not submitted in a complete and timely fashion or is not fully verifiable, Commerce may use facts otherwise available for the basis of its decision, as it determines appropriate, consistent with section 776 of the Act.

E. Consultations

1. Compliance Consultations

a. When Commerce identifies, through import or compliance monitoring or otherwise, that sales may have been made at prices inconsistent with Section VI of this AD Agreement, or that the sales are otherwise in circumvention of this AD Agreement, Commerce will notify each Signatory which it believes is responsible or, if applicable, notify the Signatory's representative. Commerce will consult with each such party for a period of up to 60 days to establish a factual basis regarding sales that may be inconsistent with Section VI of this AD Agreement.

b. During the consultation period, Commerce will examine any information that it develops or which is submitted, including information requested by Commerce under any provision of this AD Agreement.

c. If Commerce is not satisfied at the conclusion of the consultation period that sales by such Signatory are being made in compliance with Section VI of this AD Agreement, or that the sales are not circumventing this AD Agreement, Commerce may evaluate under section 351.209 of its regulations, or section 751 of the Act, whether this AD Agreement is being violated, as defined in Sections II.L and VIII of this AD Agreement, by such Signatory.

d. These compliance consultation provisions do not limit Commerce's ability to make an immediate determination under section 351.209(b) of its regulations when it determines that a Signatory has violated the AD Agreement.

If Commerce concludes that sales by a Signatory have been made at prices inconsistent with Section VI of this AD Agreement, or that sales are circumventing the AD Agreement, Commerce shall take action, as warranted. The provisions of this section do not supersede the provisions of paragraphs VIII.A–VIII.C if Commerce determines that the entries were made at prices inconsistent with Section VI of this AD Agreement.

2. Operations Consultations

Commerce will consult with the Signatories regarding the operation of

[11] Signatories agree that shipping to the United States WGJC from Argentina with a Brix level from over 68 up to and including 70 could constitute circumvention of this AD Agreement.

this AD Agreement. Commerce or the Signatories, collectively, may request such consultations at any time, except for consultations to revise the Reference Prices which must be requested in accordance with the ''Adjustment Mechanism'' described in Appendix I.

VIII. Violations of the AD Agreement

A. If Commerce determines that a Violation of the AD Agreement has occurred or that the AD Agreement no longer meets the requirements of section 734(c) or (d) of the Act, Commerce shall take action it determines appropriate under section 734(i) of the Act and section 351.209 of Commerce's regulations.

B. Pursuant to section 734(i) of the Act, Commerce will refer to CBP any Violations of the AD Agreement that appear to be intentional. Any person who intentionally commits a Violation of the AD Agreement shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedures as the penalty imposed for a fraudulent violation of section 592(a) of the Act. A fraudulent violation of section 592(a) of the Act is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise. For purposes of the AD Agreement, the domestic value of the merchandise will be deemed to be not less than the Reference Prices, as the Signatories agree to not sell the subject merchandise at prices that are less than the Reference Prices and to ensure that sales of the subject merchandise are made consistent with the terms of the AD Agreement, including Section VI.

C. In addition, Commerce will examine the activities of Signatories and any other party to a sale subject to the AD Agreement to determine whether any activities conducted by any party aided or abetted another party's Violation of the AD Agreement. If any such parties are found to have aided or abetted another party's Violation of the AD Agreement, they shall be subject to the same civil penalties described in Section VIII.B above. Signatories to this AD Agreement consent to release of all information presented to or obtained by Commerce during the conduct of verifications to CBP.

D. Examples of activities which Commerce may deem to be Violations of the AD Agreement include:

1. Sales that are at net prices (after rebates, back-billing, discounts, and other claims) that are below the Reference Prices.

2. Any act or practice which would have the effect of hiding the real price of the WGJC being sold.

3. Any other material violation or breach, as determined by Commerce.

IX. Disclosure and Comment

This section provides the terms for disclosure and comment following consultations or during segments of the proceeding not involving a review under section 751 of the Act.

A. Commerce may make available to representatives of each Interested Party, pursuant to and consistent with 19 CFR 351.304–351.306, any business proprietary information submitted to and/or collected by Commerce pursuant to Section VII of this AD Agreement, as well as the results of Commerce's analysis of that information.

B. If Commerce proposes to revise the Reference Price(s) as a result of consultations under Section VII.E.2, Commerce shall provide disclosures pursuant to the Adjustment Mechanism in Appendix I of this AD Agreement.

C. The Signatories and any other Interested Party shall file all communications and other submissions via Commerce's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov* and to all parties at the following address: U.S. Department of Commerce, Central Records Unit, Room B8024, 1401 Constitution Ave. NW, Washington, DC 20230.

Such communications and submissions shall be filed consistent with the requirements provided in 19 CFR 351.303.

X. Duration of the AD Agreement

A. This AD Agreement has no scheduled termination date. Termination of the suspended investigation shall be considered in accordance with the five-year review provisions of section 751(c) of the Act, and section 351.218 of Commerce's regulations.

B. An individual Signatory may withdraw from this AD Agreement at any time. The Signatory's withdrawal shall be effective no later than 60 days after the date written notice of withdrawal is provided to Commerce.

C. Commerce or the Signatories, collectively, may withdraw from this AD Agreement at any time. Termination of the AD Agreement shall be effective no later than 60 days after the date the written notice of withdrawal is provided to the Signatories or Commerce, respectively.

D. Upon termination of the AD Agreement, Commerce shall follow the procedures outlined in section 734(i)(1) of the Act.

XI. Other Provisions

A. Upon request, Commerce will advise any Signatory of Commerce's methodology for calculating its export price (or constructed export price) and normal value in accordance with the Act and Commerce's regulations and procedures, including but not limited to, the calculation methodologies described in Appendix II of this AD Agreement.

B. By entering into the AD Agreement, the Signatories do not admit that exports of WGJC from Argentina are having or have had an injurious effect on WGJC producers in the United States, have caused the suppression or undercutting of price, or have been sold at less than fair value.

C. As of the Effective Date, Commerce shall instruct CBP to refund any cash deposits collected as a result of the antidumping duty investigation on WGJC from Argentina. Commerce shall instruct CBP to terminate the suspension of liquidation consistent with section 734(f)(2)(B) of the Act.

For the U.S. Department of Commerce:

Ryan Majerus _____
Deputy Assistant Secretary for Policy & Negotiations
Enforcement and Compliance
March 17, 2023
Date

For the Argentine Signatory Producers and Exporters:

The following parties hereby certify that the following producers/exporters of WGJC from Argentina, which have authorized the undersigned to sign this AD Agreement on their behalf, agree to abide by all terms of the AD Agreement:

David Townsend _____
Counsel for Allub Hermanos S.R.L.; Cepas Argentinas S.A.; Enav S.A.; Jugos Australes S.A.; Jugos Y Vinos Andinos S.A.; Juviar S.A.; Mosto Mat S.A.; Recoleto S.A.; and Viña Montpellier S.A.
March 17, 2023
Date

Gregory J. Spak _____
Counsel for Federación de Cooperativas Vitivinícolas Argentinas Coop. Ltda
March 17, 2023
Date

Appendix I—Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate From Argentina—Reference Prices

Consistent with the requirements of section 734(c) of the Act, to eliminate completely the injurious effect of exports to the United States and to prevent the suppression or undercutting of price levels of domestic WGJC, the Reference Prices are as follows:

The Ex Works Argentina (*i.e.,* from the Argentine production facility, packed for shipment to the United States) Reference Prices for WGJC are:

- U.S. $7.40 per gallon for Standard WGJC; [12]
- U.S. $8.40 per gallon for Organic Standard WGJC;
- U.S. $9.40 per gallon for Kosher WGJC; and
- U.S. $11.40 per gallon for Organic Kosher WGJC.

The Reference Prices include all expenses incurred prior to shipment from the Argentine production facility. In accordance with the terms of sale, the final sales price to the first unaffiliated U.S. customer for all WGJC from Argentina exported directly, or indirectly through a third country, to the United States shall include all relevant movement and handling expenses beyond the point of departure from the Argentine production facility (*e.g.,* in Mendoza or San Juan, Argentina) and in excess of the Reference Prices, *i.e.,* the Ex Works, Argentina, price.

The parties agree to the following formulae for the conversions between metric tons and gallons:

→ 1 metric ton (MT) of 65–68 Brix WGJC = 198 gallons
→ 1 gallon of 65–68 Brix WGJC = 0.00505 MT

Additional product types within the scope of the merchandise covered by this AD Agreement (*see* Section I, ''Product Coverage'') may be added to the AD Agreement. Signatories may request that Commerce add a new product type and corresponding Reference Price by filing a written public request on the official record of the AD Agreement. Within 10 days of the filing of the request, interested parties may comment on the requested product type, including whether the product type is within the scope of the merchandise covered by this AD Agreement and the appropriate Reference Price that should apply to the new product type. Commerce will consider such requests for new product types and issue a determination in a timely manner. Additional product types and the corresponding Reference Prices would apply to U.S. sales of all Signatories going forward.

Adjustment Mechanism

The Reference Price(s) may be adjusted via the following mechanism:

Consultations on revisions to the Reference Prices may only occur after March 31, 2024, and pursuant to Operations Consultations requested by Commerce or the Signatories, collectively, under Section VII.E.2. Further, such consultations may be requested only if exports of WGJC from Argentina to the United States are equal to 100 percent of the Export Limit [13] by the end of March in the Annual Export Limit Period,[14] as reported by the Government of Argentina to Commerce 60 days following the end of March.[15] If requested, such consultations shall be completed within 10 days, followed by Commerce's disclosure of any preliminary revised Reference Prices and any relevant calculation methodology to interested parties, with an opportunity to comment provided thereafter. Commerce will normally issue any final revised Reference Prices within 30 days of a request for consultations. However, if needed and with good cause, Commerce may extend these consultation deadlines.

If any extenuating circumstances occur in the U.S. market for WGJC, Commerce may, at its discretion, request consultations on revisions to the Reference Prices at any time pursuant to Section VII.E.2.

Appendix II—Agreement Suspending the Antidumping Duty Investigation on White Grape Juice Concentrate From Argentina—Analysis of Prices at Less Than Fair Value

A. Normal Value

The cost or price information reported to Commerce that will form the basis of the normal value (NV) calculations for purposes of the AD Agreement must be comprehensive in nature and based on a reliable accounting system (*e.g.,* a system based on well-established standards and can be tied either to the audited financial statements or to the tax return filed with the Argentine government).

1. Based on Sales Prices in the Comparison Market [16]

When Commerce bases NV on sales prices, such prices will be the prices at which the foreign like product is first sold for consumption in the comparison market in the usual commercial quantities and in the ordinary course of trade. Also, to the extent practicable, the comparison shall be made at the same level of trade as the export price (EP) or constructed export price (CEP).

Calculation of NV:

Gross Unit Price
+/ − Billing Adjustments
− Movement Expenses
− Discounts and Rebates
− Direct Selling Expenses
− Commissions
− Comparison Market Packing Expenses
= Normal Value (NV)

2. Constructed Value

When NV is based on constructed value (CV), Commerce will compute CVs, as appropriate, based on the sum of each respondent's costs, plus amounts for selling, general and administrative expenses (SG&A), U.S. packing costs, and profit. Commerce will collect this cost data in order to determine the accurate per-unit CV.

Calculation of CV:

+ Direct Materials
+ Direct Labor
+ Variable Factory Overhead
+ Fixed Factory Overhead
= Cost of Manufacturing
+ G&A Expenses
+ Financial Expenses
= Cost of Production
+ Selling Expenses *
+ Profit *
+ U.S. Packing
= Constructed Value (CV)

* Selling expenses and profit are typically based on comparison market sales of the foreign like product made in the ordinary course of trade. G&A expenses are typically based on the experience of the respondent producer. Selling Expenses include movement expenses.

B. Export Price and Constructed Export Price

EP and CEP refer to the two types of calculated prices for merchandise imported into the United States. Both EP and CEP are based on the price at which the subject merchandise is first sold to a person not affiliated with the foreign producer or exporter.

Calculation of EP:

Gross Unit Price
− Movement Expenses
− Discounts and Rebates
+/ − Billing Adjustments
+ Packing Expenses
+ Rebated Import Duties
= Export Price (EP)

Calculation of CEP:

Gross Unit Price
− Movement Expenses
− Discounts and Rebates
+/ − Billing Adjustments
− Direct Selling Expenses
− Indirect Selling Expenses that relate to commercial activity in the United States
− Cost of any further manufacture or assembly incurred in the United States
− CEP Profit
+ Rebated Import Duties
− Commissions
= Constructed Export Price (CEP)

C. Fair Comparisons

To ensure that a fair comparison with EP or CEP is made, Commerce will make adjustments to NV. Commerce will adjust for physical differences between the merchandise sold in the United States and the merchandise sold in the comparison market. For EP sales, Commerce will add in U.S. direct selling expenses, U.S. commissions,[17] and packing expenses. For CEP sales, Commerce will subtract the amount of the CEP offset, if warranted, and add in U.S. packing expenses.

[FR Doc. 2023–06123 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–DS–P

[12] The Reference Price for Standard WGJC shall apply also to WGJC sold as ''de-ionized,'' provided that the de-ionized WGJC does not qualify as either Organic or Kosher. In the latter cases, the Reference Price applicable to the relevant qualification (Organic or Kosher) applies.

[13] ''Export Limit'' is defined in Section II.G of the Agreement Suspending the Countervailing Duty Investigation on White Grape Juice Concentrate from Argentina (CVD Agreement).

[14] ''Annual Export Limit Period'' is defined in Section II.H of the CVD Agreement.

[15] *See* Section VIII.B.2 of the CVD Agreement.

[16] Typically, the ''comparison market'' would be the home market (*i.e.* Argentina). It could also be a Third-Country market if the home market is not viable under section 773 of the Act and 19 CFR 351.404.

[17] If there are not commissions in both markets, then Commerce will apply a commission offset.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC867]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public hybrid meeting (in-person/virtual hybrid).

SUMMARY: The Caribbean Fishery Management Council (CFMC) will hold the 181st public hybrid meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION.**

DATES: The 181st CFMC public hybrid meeting will be held on April 18, 2023, from 9 a.m. to 5 p.m., and on April 19, 2023, from 9 a.m. to 4:45 p.m., AST.

ADDRESSES: The meeting will be held at the Hilton Ponce Golf and Casino Resort, 1150 Caribe Avenue, Ponce, Puerto Rico 00716.

You may join the 181st CFMC public hybrid meeting via Zoom, from a computer, tablet or smartphone by entering the following address:

Join Zoom Meeting: https://us02web.zoom.us/j/83060685915?pwd=VmVsc1orSUtKck8xYk1XOXNDY1ErZz09
Meeting ID: 830 6068 5915
Passcode: 995658
One tap mobile:
+17879451488,,83060685915#,,,,,,0#,,995658# Puerto Rico
+17879667727,,83060685915#,,,,,,0#,,995658# Puerto Rico
Dial by your location:
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 939 945 0244 Puerto Rico
Meeting ID: 830 6068 5915
Passcode: 995658

In case there are problems and we cannot reconnect via Zoom, the meeting will continue using GoToMeeting.

You can join the meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/971749317.* You can also dial in using your phone. United States: +1 (408) 650–3123 Access Code: 971–749–317.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

April 18, 2023

9 a.m.–9:45 a.m.

—Call to Order
—Roll Call
—Adoption of Agenda
—Consideration of 180th Council Meeting Verbatim Transcription
—Executive Director's Report
—Update on Western Central Atlantic Fishery Commission Spawning Aggregation and Queen Conch Working Group meetings—Laura Cimo, NOAA Fisheries

9:45 a.m.–10 a.m.

—Update on Amendments to the Island-based Fishery Management Plans—María López-Mercer, NOAA Fisheries

10 a.m.–10:45 a.m.

—2023 Accountability Measures Discussion—Andrew Strelcheck, NOAA Fisheries

10:45 a.m.–11 a.m.

—Break

11 a.m.–12 p.m.

—Review Draft Trawl, Net Gear and Descending Devices Amendment—María López-Mercer, NOAA Fisheries

12 p.m.–1 p.m.

—Lunch

1 p.m.–1:45 p.m.

—Review Draft Framework Amendment 2 to Update to the Spiny Lobster Overfishing Limit, Acceptable Biological Catch, and Annual Catch Limit Based on SEDAR 57 Update Assessment—Sarah Stephenson, NOAA Fisheries

1:45 p.m.–2:15 p.m.

—Scientific and Statistical Committee Report—Chair
—Ecosystem-Based Fisheries Management Technical Advisory Panel Report—Sennai Habtes, Chair

2:15 p.m.–3 p.m. (15 Minutes Each)

—District Advisory Panel Reports
  —St. Thomas, USVI—Julian Magras, Chair
  —St. Croix, USVI—Gerson Martinez, Chair
  —Puerto Rico—Nelson Crespo, Chair

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–4:15 p.m.

—Review Draft Amendment 3 to the St. Croix and St. Thomas/St. John Fishery Management Plans to Develop Management Measures for Dolphin and Wahoo—Sarah Stephenson, NOAA Fisheries

4:15 p.m.–4:45 p.m.

—Protected Resources Update—Island-Based FMPs Biological Opinion—Jennifer Lee, NOAA Fisheries

4:45 p.m.–5 p.m.

—Public Comment Period (5-minute presentations)
—Adjourn for the day

5:15 p.m.

—Closed Session

April 19, 2023

9 a.m.–9:30 a.m.

—CFMC Best Practices Discussion—Katharine Zamboni, NOAA General Counsel

9:30 a.m.–10:30 a.m.

—Southeast Fishery Science Center Updates—Kevin McCarthy, NOAA Fisheries

10:30 a.m.–10:45 a.m.

—Break

10:45 a.m.–11:15 a.m.

—NOAA Fisheries' Equity and Environmental Justice (EEJ) Strategy, Regional Implementation Process, and Schedule—Andrew Strelcheck, NOAA Fisheries

11:15 a.m.–11:45 a.m.

—Outreach and Education Report—Alida Ortiz, Chair

11:45 a.m.–12 p.m.

—Social Media Report—Cristina Olan

12 p.m.–1:30 p.m.

—Lunch Break

1:30 p.m.–2 p.m.

—Application of CFMC Queen Conch Training Modules in a European Union/FAO Funded Pilot Program to Improve Queen Conch Landings in Jamaica—Nelson Ehrhardt

2 p.m.–2:30 p.m.

—Development of Educational Resources on the Shark Species (Infraclass: Selachii) of Puerto Rico as Tools to Inform the General Public—Wanda Ortiz

2:30 p.m.–3 p.m.

—Liaison Officers Reports (10 minutes each)
  —St. Croix, USVI—Mabel Maldonado
  —St. Thomas/St. John, USVI—Nicole Greaux

—Puerto Rico—Wilson Santiago

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–3:45 p.m.

—Enforcement Reports (10 minutes each)
—Puerto Rico—Department of Natural and Environmental Resources
—USVI—Department of Planning and Natural Resources
—U.S. Coast Guard
—NOAA's Office of Law Enforcement

3:45 p.m.–4:15 p.m.

—Other Business

4:15 p.m.–4:45 p.m.

—Public Comment Period (5-minute presentations)
—Next Meeting

Note (1): Other than starting time and dates of the meetings, the established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice. Changes in the agenda will be posted to the CFMC website, Facebook, Twitter and Instagram as practicable.

Note (2): Financial disclosure forms are available for inspection at this meeting, as per 50 CFR part 601.

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on April 18, 2023, at 9 a.m. AST, and will end on April 19, 2023 at 4:45 p.m. AST. Other than the start time on the first day of the meeting, interested parties should be aware that discussions may start earlier or later than indicated in the agenda, at the discretion of the Chair.

Special Accommodations

Simultaneous interpretation will be provided.

For simultaneous interpretation English-Spanish-English follow your Zoom screen instructions. You will be asked which language you prefer when you join the meeting.

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 226–8849.

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

Dated: March 21, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06159 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC850]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of Seminar Series presentation via webinar.

SUMMARY: The South Atlantic Fishery Management Council (Council) will host a presentation on the spatial footprint and ecological siting principles of artificial reefs in the South Atlantic region via webinar as part of its ongoing Seminar Series.

DATES: The webinar presentation will be held on Tuesday, April 11, 2023, from 1 p.m. until 2:30 p.m.

ADDRESSES:

Meeting address: The presentation will be provided via webinar. The webinar is open to members of the public. Information, including a link to webinar registration will be posted on the Council's website at: *https://safmc.net/safmc-seminar-series/* as it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8439 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The Council will host a presentation from NOAA National Centers for Coastal Ocean Science will present findings from multiple studies on artificial reefs, including the artificial and natural reef area in the South Atlantic region, ecological principles for siting artificial reefs, and analyses of fish relative abundance. This presentation will share highlights of research conducted in the South Atlantic region. A question-and-answer session will follow the presentation. Members of the public will have the opportunity to participate in the discussion. The presentation is for informational purposes only and no management actions will be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 20, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06029 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC862]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring 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 Tuesday, April 11, 2023, at 9:30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/9091304627176459862.*

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 Herring Advisory Panel will receive an overview of the Council's Atlantic herring priorities for 2023 and plan for the year. They will also discuss the Plan Development Team's analysis

of factors contributing to the low 2020–22 river herring and shad catch estimates in the Atlantic herring fishery. The Advisors will also revisit Amendment 8 Inshore Midwater Trawl Closure and receive a summary of issues and discussion of next steps as well as make recommendations to the Herring Committee, as appropriate. 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 20, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06026 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC861]

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in April, May, and June of 2023. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted later in 2023 and will be announced in a future notice. In addition, NMFS has implemented online recertification workshops for persons who have already taken an in-person training.

DATES: The Atlantic Shark Identification Workshops will be held on April 13, 2023, May 11, 2023, and June 8, 2023. The Safe Handling, Release, and Identification Workshops will be held on April 13, 2023, May 11, 2023, and June 15, 2023.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Wilmington, NC, Manahawkin, NJ, and Pompano Beach, FL. The Safe Handling, Release, and Identification Workshops will be held in Panama City, FL, Charleston, SC, and Ocean City, MD.

FOR FURTHER INFORMATION CONTACT: Tiffany Weidner by email at *tiffany.weidner@noaa.gov* or by phone at 301–427–8550.

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS) fisheries are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments are implemented by regulations at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are available online at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057, October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2020 will expire in 2023.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances that are extensions of a dealer's place of business.

Workshop Dates, Times, and Locations

1. April 13, 2023, 12 p.m.–4 p.m., Wingate by Wyndham, 5126 Market Street/Business 7, Wilmington, NC 28405.
2. May 11, 2023, 12 p.m.–4 p.m., Holiday Inn Manahawkin, 151 Route 77 East, Manahawkin, NJ 08050.
3. June 8, 2023, 12 p.m.–4 p.m., Hampton Inn Fort Lauderdale Pompano Beach, 900 South Federal Highway, Pompano Beach, FL 33062.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at 386–852–8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the

following specific items to the workshop:

• Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.

• Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited access and swordfish limited access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057, October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2020 will expire in 2023. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited access permits. Additionally, new shark and swordfish limited access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued.

In addition to vessel owners, at least one operator on board vessels issued a limited access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates on board at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited access permits on which longline or gillnet gear is used.

Workshop Dates, Times, and Locations

1. April 13, 2023, 9 a.m.–5 p.m., Hilton Garden Inn, 1101 US Highway 231, Panama City, FL 32405.
2. May 11, 2023, 9 a.m.–5 p.m., The Hampton Inn and Suites Charleston West Ashley, 678 Citadel Haven Drive, Charleston, SC 29414.
3. June 15, 2023, 9 a.m.–5 p.m., Residence Inn by Marriott Ocean City, 300 Seabay Lane, Ocean City, MD 21842.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at 386–682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

• Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;

• Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and

• Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

Online Recertification Workshops

NMFS implemented an online option for shark dealers and longline and gillnet fishermen to renew their certificates in December 2021. To be eligible for online recertification workshops, dealers and fishermen need to have previously attended an in-person workshop. Information about the courses is available online at *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.* To access the course, please visit: *https://hmsworkshop.fisheries.noaa.gov/start.*

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

Dated: March 21, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–06139 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC866]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Socio-Economic Panel (SEP) on April 17 and 18, 2023. The Scientific and Statistical Committee (SSC) will meet on April 18–20, 2023.

DATES: The SEP meeting will be held from 1 p.m. until 5 p.m. EDT on April 17, 2023 and from 8:30 a.m. until 12 p.m. on April 18, 2023. The SSC meeting will be held from 1 p.m. until 5 p.m. EDT on April 18, 2023, from 8:30 a.m. until 5 p.m. on April 19, 2023 and

from 8:30 a.m. until 3 p.m. on April 20, 2023.

ADDRESSES:

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

Meeting address: The meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: (843) 571–1000. The meetings will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meetings at: *https://safmc.net/scientific-and-statistical-committee-meeting/*.

FOR FURTHER INFORMATION CONTACT: John Hadley, Fishery Management Plan Coordinator, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *john.hadley@safmc.net*.

SUPPLEMENTARY INFORMATION:

SSC Socio-Economic Panel

The SEP meeting agenda includes discussing the development of a port meeting series for the king and Spanish mackerel fisheries, the Management Strategy Evaluation (MSE) for the snapper grouper fishery in the South Atlantic region, and potential improvements to economic analysis of recreational fisheries. The SEP will also provide feedback on Council research recommendations. The SEP will receive two presentations, one from NOAA Fisheries Southeast Regional Office (SERO) on socio-economic impacts of COVID, and one from NOAA Fisheries Southeast Fishery Science Center (SEFSC) on red snapper discard research. SEP members also will receive updates on recent Council amendments and the Council's Citizen Science Program. The SEP will provide recommendations for SSC and Council consideration.

Scientific and Statistical Committee

The SSC meeting agenda includes the review and catch level recommendations for the SEDAR (Southeast Data, Assessment, and Review) 76 Black Sea Bass Operational Assessment, SEDAR 78 Spanish Mackerel Operational Assessment, and SEDAR 68 Atlantic Scamp Operational Assessment. The SSC will review the Council's Research and Monitoring Plan, a new SEFSC landings and discards projections methodology, the deep-water coral distribution model, and a portfolio analysis for ecosystem approaches. The SSC will receive updates on the South Atlantic Greater Amberjack Research Project, vermillion snapper interim analysis, Southeast Reef Fish Survey 2022 trends report, multi-hook gear analysis, and a pandemic impacts report. The SSC is scheduled to form two new workgroups and will discuss other business as needed.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 21, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06110 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC793]

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 79 Data Scoping webinar for Gulf of Mexico and South Atlantic mutton snapper.

SUMMARY: The SEDAR 79 assessment process of Gulf of Mexico and South Atlantic mutton snapper will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 79 Data Scoping webinar will be held April 13, 2023, from 1 p.m. to 2 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) a Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and Federal agencies.

The items of discussion during the Data Scoping webinar are as follows:

Participants will discuss what data may be available for use in the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been

notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 21, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06108 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC840]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter of Authorization (LOA) has been issued to CGG for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

DATES: The LOA is effective from May 1, 2023, through December 31, 2023.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

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

SUPPLEMENTARY INFORMATION:

Background

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

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

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

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in Federal waters of the U.S. Gulf of Mexico (GOM) over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

CGG plans to conduct a 3D ocean bottom node (OBN) survey over approximately 200 lease blocks in the Walker Ridge and Green Canyon areas of the central GOM, with approximate water depths ranging from 1,000 to 3,200 meters (m). See Section F of the LOA application for a map of the area. CGG anticipates using two dual source vessels, towing airgun array sources consisting of 32 elements, with a total volume of 5,040 cubic inches (in^3). Please see CGG's application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by CGG in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5398, January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone);[1] (3) number of days; and (4) season.[2] The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

No 3D OBN surveys were included in the modeled survey types, and use of existing proxies (*i.e.,* 2D, 3D NAZ, 3D WAZ, Coil) is generally conservative for use in evaluation of 3D OBN survey effort, largely due to the greater area

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

covered by the modeled proxies. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, 29220, June 22, 2018). Coil was selected as the best available proxy survey type because the spatial coverage of the planned survey is most similar to that associated with the coil survey pattern. The planned 3D OBN survey will involve two source vessels sailing along survey lines approximately 55 km in length. The coil survey pattern was assumed to cover approximately 144 kilometers squared (km^2) per day (compared with approximately 795 km^2, 199 km^2, and 845 km^2 per day for the 2D, 3D NAZ, and 3D WAZ survey patterns, respectively). Among the different parameters of the modeled survey patterns (*e.g.,* area covered, line spacing, number of sources, shot interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria. Although CGG is not proposing to perform a survey using the coil geometry, its planned 3D OBN survey is expected to cover approximately 80 km^2 per day, meaning that the coil proxy is most representative of the effort planned by CGG in terms of predicted Level B harassment exposures.

In addition, all available acoustic exposure modeling results assume use of a 72-element, 8,000 in^3 array. Thus, take numbers authorized through the LOA are considered conservative due to differences in both the airgun array (32 elements, 5,040 in^3) and the daily survey area planned by CGG (85 km^2), as compared to those modeled for the rule.

The survey will take place over approximately 105 days, including 65 days of sound source operation. The survey plan includes 50 days within Zone 7 and 15 days within Zone 5. The seasonal distribution of survey days is not known in advance. Therefore, the take estimates for each species are based on the season that produces the greater value.

For some species, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. Thus, although the modeling conducted for the rule is a natural starting point for estimating take, the rule acknowledged that other information could be considered (see, *e.g.,* 86 FR 5442 (January 19, 2021), discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate for certain marine mammal species produces results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates for those species as described below.

NMFS' final rule described a ''core habitat area'' for Rice's whales (formerly known as GOM Bryde's whales) [3] located in the northeastern GOM in waters between 100–400 m depth along the continental shelf break (Rosel *et al.,* 2016). However, whaling records suggest that Rice's whales historically had a broader distribution within similar habitat parameters throughout the GOM (Reeves *et al.,* 2011; Rosel and Wilcox, 2014). In addition, habitat-based density modeling identified similar habitat (*i.e.,* approximately 100–400 m water depths along the continental shelf break) as being potential Rice's whale habitat (Roberts *et al.,* 2016), although the core habitat area contained approximately 92 percent of the predicted abundance of Rice's whales. See discussion provided at, *e.g.,* 83 FR 29228, 83 FR 29280 (June 22, 2018); 86 FR 5418 (January 19, 2021).

Although Rice's whales may occur outside of the core habitat area, we expect that any such occurrence would be limited to the narrow band of suitable habitat described above (*i.e.,* 100–400 m) and that, based on the few available records, these occurrences would be rare. CGG's planned activities will occur in water depths of approximately 1,000–3,200 m in the central GOM. Thus, NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through this LOA.

Killer whales are the most rarely encountered species in the GOM, typically in deep waters of the central GOM (Roberts *et al.,* 2015; Maze-Foley and Mullin, 2006). The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. NMFS has determined that the approach results in unrealistic projections regarding the likelihood of encountering killer whales.

As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales, the model is informed by few data, as indicated by the coefficient of variation associated with the abundance predicted by the model (0.41, the second-highest of any GOM species model; Roberts *et al.,* 2016). The model's authors noted the expected non-uniform distribution of this rarely-encountered species (as discussed above) and expressed that, due to the limited data available to inform the model, it ''should be viewed cautiously'' (Roberts *et al.,* 2015).

NOAA surveys in the GOM from 1992–2009 reported only 16 sightings of killer whales, with an additional 3 encounters during more recent survey effort from 2017–18 (Waring *et al.,* 2013; *https://www.boem.gov/gommapps*). Two other species were also observed on fewer than 20 occasions during the 1992–2009 NOAA surveys (Fraser's dolphin and false killer whale).[4] However, observational data collected by protected species observers (PSOs) on industry geophysical survey vessels from 2002–2015 distinguish the killer whale in terms of rarity. During this period, killer whales were encountered on only 10 occasions, whereas the next most rarely encountered species (Fraser's dolphin) was recorded on 69 occasions (Barkaszi and Kelly, 2019). The false killer whale and pygmy killer whale were the next most rarely encountered species, with 110 records each. The killer whale was the species with the lowest detection frequency during each period over which PSO data

[3] The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.,* 2021).

[4] However, note that these species have been observed over a greater range of water depths in the GOM than have killer whales.

were synthesized (2002–2008 and 2009–2015). This information qualitatively informed our rulemaking process, as discussed at 86 FR 5334 (January 19, 2021), and similarly informs our analysis here.

The rarity of encounters during seismic surveys is not likely to be the product of high bias on the probability of detection. Unlike certain cryptic species with high detection bias, such as *Kogia* spp. or beaked whales, or deep-diving species with high availability bias, such as beaked whales or sperm whales, killer whales are typically available for detection when present and are easily observed. Roberts *et al.* (2015) stated that availability is not a major factor affecting detectability of killer whales from shipboard surveys, as they are not a particularly long-diving species. Baird *et al.* (2005) reported that mean dive durations for 41 fish-eating killer whales for dives greater than or equal to 1 minute in duration was 2.3–2.4 minutes, and Hooker *et al.* (2012) reported that killer whales spent 78 percent of their time at depths between 0–10 m. Similarly, Kvadsheim *et al.* (2012) reported data from a study of four killer whales, noting that the whales performed 20 times as many dives 1–30 m in depth than to deeper waters, with an average depth during those most common dives of approximately 3 m.

In summary, killer whales are the most rarely encountered species in the GOM and typically occur only in particularly deep water (>700 m). This survey would take place in deep waters that would overlap with depths in which killer whales typically occur. While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. NMFS' determination in reflection of the data discussed above, which informed the final rule, is that use of the generic acoustic exposure modeling results for killer whales will generally result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5403, January 19, 2021).

In past authorizations, NMFS has often addressed situations involving the low likelihood of encountering a rare species, such as killer whales in the GOM, through authorization of take of a single group of average size (*i.e.,* representing a single potential encounter). See 83 FR 63268, December 7, 2018. See also 86 FR 29090, May 28, 2021 and 85 FR 55645, September 9, 2020. For the reasons expressed above, NMFS determined that a single encounter of killer whales is more likely than the model-generated estimates and has authorized take associated with a single group encounter (*i.e.,* up to 7 animals).

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See Table 1 in this notice and Table 9 of the rule (86 FR 5322, January 19, 2021).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5438, January 19, 2021).

The take numbers for authorization are determined as described above in the Summary of Request and Analysis section. Subsequently, the total incidents of harassment for each species are multiplied by scalar ratios to produce a derived product that better reflects the number of individuals likely to be taken within a survey (as compared to the total number of instances of take), accounting for the likelihood that some individual marine mammals may be taken on more than 1 day (see 86 FR 5404, January 19, 2021). The output of this scaling, where appropriate, is incorporated into adjusted total take estimates that are the basis for NMFS' small numbers determinations, as depicted in Table 1.

This product is used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 86 FR 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.,* 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take	Scaled take [1]	Abundance [2]	Percent abundance
Rice's whale	0	n/a	51	n/a
Sperm whale	659	278.9	2,207	12.6
Kogia spp.	[3] 298	89.2	4,373	2.5
Beaked whales	4,078	412.0	3,768	10.9
Rough-toothed dolphin	734	210.6	4,853	4.3
Bottlenose dolphin	1,430	410.5	176,108	0.2
Clymene dolphin	1,990	571.0	11,895	4.8
Atlantic spotted dolphin	567	162.6	74,785	0.2
Pantropical spotted dolphin	15,211	4,365.5	102,361	4.3
Spinner dolphin	1,292	370.7	25,114	1.5
Striped dolphin	925	265.4	5,229	5.1
Fraser's dolphin	282	80.9	1,665	4.9
Risso's dolphin	432	127.6	3,764	3.4

TABLE 1—TAKE ANALYSIS—Continued

Species	Authorized take	Scaled take [1]	Abundance [2]	Percent abundance
Melon-headed whale	1,293	381.4	7,003	5.4
Pygmy killer whale	490	144.5	2,126	6.8
False killer whale	614	181.2	3,204	5.7
Killer whale	7	n/a	267	2.6
Short-finned pilot whale	219	64.5	1,981	3.3

[1] Scalar ratios were applied to ''Authorized Take'' values as described at 86 FR 5322, 5404 (January 19, 2021) to derive scaled take numbers shown here.

[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For Rice's whale and killer whale, the larger estimated SAR abundance estimate is used.

[3] Includes 20 takes by Level A harassment and 278 takes by Level B harassment. Scalar ratio is applied to takes by Level B harassment only; small numbers determination made on basis of scaled Level B harassment take plus authorized Level A harassment take.

Based on the analysis contained herein of CGG's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to CGG authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: March 21, 2023.

Kimberly Damon-Randall,

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

[FR Doc. 2023–06088 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC852]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Risk Policy Working Group to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person with a webinar option. 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 Tuesday, April 11, 2023, at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/7849302889795266143.*

ADDRESSES: This meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

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 Risk Policy Working Group will discuss the Council's current risk policy and receive a presentation on Risk Policies used by other Regional Fishery Management Councils. They will develop draft terms of reference and workplan for revising the Council's Risk Policy. Other business will be discussed, if 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 20, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06031 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC848]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Endangered Species Workgroup (Workgroup) will hold a public meeting.

DATES: The meeting will be held Wednesday, April 12, 2023, from 9 a.m. to 4 p.m. and Thursday, April 13, 2023, from 9 a.m. to 12 p.m., Pacific Daylight Time or until business for the day has been completed. The meeting will be a hybrid format with the Workgroup meeting in person, with live streaming and remote participation options.

ADDRESSES: This meeting will be held at the NOAA Western Regional Center, 7600 Sand Point Way NE, Seattle, WA 98115. 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*).

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, Staff Officer, Pacific Council; telephone: (503) 820–2424.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to discuss and develop work products and recommendations for the Pacific Council's June 2023 meeting. Specifically, the Workgroup will review recent information on incidental take of species listed under the Endangered Species Act (ESA), other than salmonids, in the Pacific Coast groundfish fishery. The Workgroup may propose for Pacific Council consideration, conservation and management measures to minimize bycatch of the pertinent ESA-listed species. The meeting agenda will be available on the Pacific Council's website in advance of the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: March 20, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06030 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC856]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 74 Assessment Webinar VI for Gulf of Mexico red snapper.

SUMMARY: The SEDAR 74 assessment of Gulf of Mexico red snapper will consist of a Data workshop, a series of assessment webinars, and a Review workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 74 Assessment Webinar VI will be held Tuesday, April 18, 2023, from 9 a.m. to 12 p.m., Eastern.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; telephone: (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in webinar are as follows:

Participants will discuss modeling approaches for use in the assessment of Gulf of Mexico red snapper.

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

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 21, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06109 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC863]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee 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 Wednesday, April 12, 2023, at 9:30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8812001185931221599.*

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 Herring Committee will receive an overview of the Council's Atlantic herring priorities for 2023 and plan for the year. They will also discuss the Plan Development Team's analysis of factors contributing to the low 2020–22 river herring and shad catch estimates in the Atlantic herring fishery. The Committee will also revisit Amendment 8 Inshore Midwater Trawl Closure and receive a summary of issues and discussion of next steps as well as consider recommendations from the Herring Advisory Panel. The Committee will also make recommendations to the Council, as appropriate. 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 20, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–06032 Filed 3–23–23; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

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

ACTION: Proposed deletions from the Procurement List.

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

DATES: *Comments must be received on or before:* April 23, 2023.

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

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

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

Deletions

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

Product(s)

NSN(s)—Product Name(s):

7520–01–620–4671—Hole Punch, Paper, High-capacity, 3-Hole, Adjustable, 28 sheet capacity, Black Base, Black Grip

Designated Source of Supply: AbilityFirst, Pasadena, CA

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Mailroom Support Services

Mandatory for: Internal Revenue Service Mailroom: 310 West Wisconsin Avenue, Milwaukee, WI

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS/

Service Type: Mailing Services

Mandatory for: Government Printing Office: 710 North Capitol & H Street NW, Washington, DC

Designated Source of Supply: Virginia Industries for the Blind, Charlottesville, VA

Contracting Activity: Government Printing Office

Service Type: Mailing Services

Mandatory for: Department of Housing and Urban Development, 52 Corporate Circle, Albany, NY

Designated Source of Supply: Northeastern Association of the Blind at Albany, Inc., Albany, NY

Contracting Activity: HOUSING AND URBAN DEVELOPMENT, DEPARTMENT OF, DEPT OF HOUSING AND URBAN DEVELOPMENT

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–06099 Filed 3–23–23; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

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

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* April 23, 2023.

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

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703)

785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 1/27/2023 and 2/3/2023, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

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

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7110–01–590–8676—Dual Monitor Arm, Column Mount, Ergonomic, Dark Gray, 21.7″ W x 14.6″ H x 7.1″ D
7110–01–590–8674—Monitor Arm, Column Mount, Ergonomic, Individual, Dark Gray, 17″
Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS FURNITURE SYSTEMS MGT DIV, PHILADELPHIA, PA

NSN(s)—Product Name(s):
6645–01–046–8848—Clock, Wall, Slimline, Brown 9¼″ Quartz
6645–01–046–8849—Clock, Wall, Slimline, Brown 12¾″ Quartz
Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7045–01–470–3590—Greendisk
Designated Source of Supply: North Central Sight Services, Inc., Williamsport, PA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s):
7520–00–904–1265—Marker, Tube Type, Fine Point, Black
7520–00–904–1266—Marker, Tube Type, Fine Point, Red
7520–00–904–1267—Marker, Tube Type, Fine Point, Green
7520–00–904–1268—Marker, Tube Type, Fine Point, Blue
Designated Source of Supply: Winston-Salem Industries for the Blind, Inc, Winston-Salem, NC
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Parts Machining
Mandatory for: U.S. Postal Service: National Inventory Control Center, Topeka, KS
Designated Source of Supply: Arizona Industries for the Blind, Phoenix, AZ
Contracting Activity: U.S. Postal Service, Washington, DC

Michael R. Jurkowski,
Acting Director, Business Operations.

[FR Doc. 2023–06100 Filed 3–23–23; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2023–0023]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau or CFPB) requests the extension of the Office of Management and Budget's (OMB's) approval of an existing information collection titled ''Generic Information Collection Plan for Surveys Using the Consumer Credit Panel'' approved under OMB Control Number 3170–0066.

DATES: Written comments are encouraged and must be received on or before April 24, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for Surveys Using the Consumer Credit Panel.

OMB Control Number: 3170–0066.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Respondents: 18,000.

Estimated Total Annual Burden Hours: 9,000.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act charges the Bureau with researching, analyzing, and reporting on topics relating to the Bureau's mission including consumer behavior, consumer awareness, and developments in markets for consumer financial products and services. To improve its understanding of how consumers engage with financial markets, the Bureau has used the Consumer Credit Panel (CCP), a proprietary sample dataset from one of the national credit reporting agencies, as a frame to survey people about their experiences in consumer credit markets. The Bureau seeks to obtain approval for a generic information collection plan for these types of surveys. Surveys conducted under this generic information collection plan will support the Bureau's mission to conduct research in areas related to consumer finance including research to monitor developments in consumers' financial situations, related changes in their use of financial products, and the impacts that these decisions have on their balance sheets. All research under this plan will be for general, formative, and informational research on consumer financial markets and consumers' use of financial products and will not directly provide the basis for specific policymaking at the Bureau.

Request for Comments: The Bureau published a 60-day **Federal Register**

notice on January 11, 2023 (88 FR 1564) under Docket Number: CFPB–2023–0004. The Bureau is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2023–06113 Filed 3–23–23; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2023–0013]

Notice of Availability: Proposed Draft Guidance for Estimating Value per Statistical Life

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Draft guidance; notice of availability.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is announcing the availability of proposed draft guidance for CPSC's staff on the application of the Value of Statistical Life in the agency's cost-benefit analyses, and in particular for its regulatory analyses. CPSC seeks comments on the proposed draft guidance.

DATES: Submit comments by May 23, 2023.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2023–0013, by any of the following methods:

Electronic Submissions: Submit electronic comments to *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using *www.regulations.gov.* You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided to *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and insert the docket number, CPSC–2023–0013, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alex Moscoso, Associate Executive Director, Directorate for Economic Analysis, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–7782; email: *amoscoso@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Value per Statistical Life (VSL) is a widely used parameter in cost-benefit analysis, including regulatory analysis, which represents an individual's willingness to pay for reducing their risk of fatality. VSL values a reduction of fatality risk in monetary terms to be used for cost-benefit analysis. VSL is not an attempt to place a value on any individual life. Instead, government economists typically apply VSL in regulatory analysis to measure the welfare impact of policies that reduce or increase fatalities.

The CPSC's Directorate for Economic Analysis (EC) is responsible for conducting all economic analyses for the agency, which includes regulatory analysis. Regulatory analysis may include a cost-benefit analysis of a proposed regulation. EC regularly uses VSL in its regulatory analyses of CPSC regulations. While the U.S. Office of Management and Budget and some executive branch agencies and departments have published guidelines on the application of VSL for their purposes,[1] CPSC is not subject to those guidelines. This NOA describes proposed guidelines for CPSC staff on the application of VSL for cost-benefit analysis, and in particular for the Commission's regulatory analysis.[2] Specifically, the draft guidance will establish for CPSC staff a standard source for estimating VSL as well as guidelines for adjusting VSL for inflation, changes in real income (*i.e.,* controlling for inflation), sensitivity analysis, and discounting.

Among other elements, the proposed draft guidance document prescribes a VSL estimate specifically for children. Government economists often apply VSL uniformly to all fatalities that fall within the scope of the regulation being assessed. This approach has the advantage of simplicity. However, it systematically underestimates benefits for regulations that reduce fatality risk to children. It is widely observed that society prioritizes the safety of children and invests significantly in child safety. Examples include the large investments made on child safety such as the baby-proofing industry,[3] safety caps on over-the-counter medicines,[4] and the certifications and licensing required for daycare centers and schools to promote child safety. Consistent with this,

[1] The U.S. Department of Transportation (DOT), U.S. Department of Health and Human Services (HHS), and U.S. Environmental Protection Agency (EPA) all recommend default VSL estimates in their official guidelines. The Office of Management and Budget provides general best practice guidance (OMB Circular A–4) to Federal executive branch agencies on regulatory analysis, including discussion of issues related to estimating VSL. While Circular A–4 recommends avoiding age-adjustment factors due to mixed evidence on age and VSL, it should be noted that since OMB published Circular A–4 (September 2003) 20 years ago, there has been new research studying an age-adjustment factor for children's VSL, including Robinson et al. (2019).

[2] The Commission voted 4–0 to approve publication of this notice. Commissioner statements in connection with this vote are available at: *https://www.cpsc.gov/s3fs-public/RCADraftFederalRegisterNoticeNoticeofAvailabilityProposedGuidanceforUsingValueofStatisticalLife.pdf?VersionId=5I3jGkZymDY8qdMwPzqMSM_fim8M49TM.*

[3] $14.21 billion market in 2022. Business Wire, ''Baby Safety Devices Market Research Report 2022—Global Forecast to 2027'', May 16, 2022, *https://www.businesswire.com/news/home/20220516005546/en/Baby-Safety-Devices-Market-Research-Report-2022--Global-Forecast-to-2027--ResearchAndMarkets.com.*

[4] Poison Prevention Packaging Act of 1970, Public Law 91–601, (84 Stat. 1670).

Congress has provided CPSC special statutory mandates to protect children.[5] Research on individuals' willingness to exchange money to reduce fatality risks to children appears to align with these societal preferences.[6] The draft guidance document defines an elevated VSL for children to more accurately assess the benefits of regulations that protect children from deadly outcomes.

II. Discussion

This notice provides background on relevant work CPSC has done to understand the issue of child VSL; describes the current practice of using VSL in regulatory economics, both at CPSC and in other government agencies; explains CPSC's reason for issuing VSL guidelines; puts forward draft guidelines for CPSC staff's use of VSL; and requests public comment on these draft VSL guidelines.

The draft guidance does not discuss the valuation or averted costs associated with reducing non-fatal injuries. Some federal agencies and departments estimate their values or averted costs associated with reducing non-fatal injuries as a function of VSL. CPSC, however, determines the averted costs of reducing non-fatal injuries through its Injury Cost Model, independent of VSL.[7] Therefore, the draft guidance does not change CPSC's injury cost estimation approach.

A. Background

VSL is usually derived from willingness to pay studies. These studies either use surveys to investigate individuals' willingness to exchange their own income for a change in their own risk, or examine real world behavior that reflects this trade-off, such as the change in income associated with a change in job-related risk. Individual willingness to pay estimates from these studies are then converted to a VSL estimate by dividing by the risk change. For example, if a group of 10,000 individuals were willing to pay $900 each to reduce their risk of death by 0.01 percent in a given year, then in the aggregate that group of individuals would be willing to spend $9 million[8] to reduce the risk of one additional fatality in that given year. These studies usually estimate the value that adults place on reducing their own risk of fatality. Inherently, individuals' willingness to pay is a function of their real income, wealth, and other personal factors as well as the characteristics of the risk.

This approach cannot be used with children, who do not control financial resources and may not understand or be able to express their willingness to pay for such reductions. Furthermore, assigning the same VSL for adults and children ignores the evidence, noted above, that society values the safety of children more than adults. Failing to acknowledge the importance of child safety within society runs the risk of undervaluing the public benefits of regulations that protect children, potentially resulting in insufficient investment of resources to protect the very lives of those whose safety society values most.

CPSC is an independent Federal agency tasked with protecting consumers from unreasonable risk of death and injuries from consumer products. Many of the agency's regulations reduce the risk to children of death and serious injury. Furthermore, CPSC's statutory authorities (such as sections 104 and 106 of Consumer Product Safety Improvement Act of 2008, Public Law 110–314, 122 Stat. 3016) and policy statements (such as 16 CFR 1009.8(c)(6)) direct the Commission and its staff to place a higher priority on preventing product related injury to vulnerable populations, which include children. Therefore, CPSC has a statutorily based interest in estimating a VSL for children and ensuring it presents a comprehensive assessment of the benefits from regulation.

In 2018, Industrial Economics Inc. (IEc) conducted a literature review of studies estimating a VSL for children and drafted a report for CPSC that described its findings.[9] IEc found that ''[t]he number of studies that explore the value of reducing children's risks has increased substantially in recent years. The results of these studies are diverse, but generally suggest that the value individuals place on reducing risks to children is greater than the value of reducing risks to adults''.[10] In 2019, the group of co-authors, including the authors of this report published an update of the literature review in a peer-reviewed journal with some modifications from the 2018 report.[11] These studies found five publications that satisfied many of their evaluation criteria, which showed VSL for children exceeds the VSL for adults by a factor of 1.2 to 2.9, with a midpoint of roughly 2.[12]

Since these studies, CPSC has published three regulations in the **Federal Register** (FR) aimed at children's safety that included cost-benefit analysis: Safety Standard for Magnets (87 FR 57756), Safety Standard for Operating Cords on Custom Window Coverings (87 FR 73144), and Safety Standard for Clothing Storage Units (87 FR 72598). While all three of the regulatory analyses estimated benefits that came primarily from preventing death and injury to individuals under 18 years old, CPSC used VSL based on adults. However, in the cost-benefit analyses of custom window coverings and clothing storage units, CPSC also used child-to-adult VSL ratios from these studies as part of the sensitivity analyses to evaluate the impact of an elevated VSL for children.

B. Federal Agency Practice

The EPA, DOT, and HHS each have formal guidelines for estimating VSL within their agency. EPA derives its estimates from 26 studies, of which 21 are wage-risk studies.[13] DOT primarily addresses injury-related risks and derives its VSL estimate exclusively from wage-risk studies, which also address injury-related risks.[14] HHS bases its VSL estimates on six wage-risk studies and one meta-analysis of these studies, as well as three stated preference studies.[15] Table 1 displays the values of all three agencies' VSL, adjusted to 2021 dollars and income levels for comparison.

[5] See, for example, Title I of the Consumer Product Safety Improvement Act of 2008, Public Law 110–314 (122 Stat. 3016), entitled ''Children's Product Safety.''

[6] Robinson, L., Raich, W., Hammitt, J., & O'Keeffe, L. (2019). Valuing Children's Fatality Risk Reductions. Journal of Benefit-Cost Analysis, 10(2), 156–177.

[7] For information on how CPSC estimates the cost of injuries, see: *https://www.cpsc.gov/s3fs-public/ICM-2018-Documentation.pdf.*

[8] $9 million = $900 ÷ 0.01% reduction in fatality = $9 million per expected death averted.

[9] Industrial Economics, Inc. ''Valuing Reductions in Fatal Risks to Children'', January 3, 2018, *https://www.cpsc.gov/content/Valuing-Reductions-in-Fatal-Risks-to-Children.*

[10] Ibid.

[11] Robinson, L., Raich, W., Hammitt, J., & O'Keeffe, L. (2019). Valuing Children's Fatality Risk Reductions. Journal of Benefit-Cost Analysis, 10(2), 156–177.

[12] See citation in footnote 9.

[13] U.S. Environmental Protection Agency, ''Guidelines for Preparing Economic Analyses'', 2010, *https://www.epa.gov/environmental-economics/guidelines-preparing-economic-analyses.*

[14] U.S. Department of Transportation, ''Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses'', 2021, *https://www.transportation.gov/sites/dot.gov/files/2021-03/DOT%20VSL%20Guidance%20-%202021%20Update.pdf.*

[15] U.S. Department of Health and Human Services, ''Guidelines for Regulatory Impact Analysis'', 2016, *https://aspe.hhs.gov/reports/guidelines-regulatory-impact-analysis.*

TABLE 1—U.S FEDERAL AGENCY CENTRAL VSL ESTIMATES
[2021 dollars and income levels]

EPA	DOT	HHS
$11.3 million	$11.8 million	$11.6 million

CPSC has routinely used EPA's VSL estimate in the benefits assessments of its regulatory analyses. Specifically, CPSC adjusts EPA's base VSL for inflation to the year of the analysis using the Bureau of Labor Statistics' Consumer Price Index. Then, the inflation adjusted VSL is multiplied by the number of estimated deaths. This generates a monetized value of benefits from the fatality risk reduction associated with the proposed rule. When the analysis projects the regulation's impact into the future, CPSC additionally discounts all monetized future costs and benefits, including the value of prevented deaths, to account for the time value of money.

C. Reasons for Establishing the Proposed VSL Guidelines

CPSC regularly assesses the costs and benefits of proposed regulations that address safety. By developing and publishing guidelines for its staff's use of VSL in regulatory analysis, CPSC can: (1) help ensure that its regulatory analyses appropriately measure the benefits from reduced fatality risk, including children's mortality; (2) improve consistency across regulatory analyses regarding the valuation of benefits for reducing fatality risk; and (3) promote transparency by sharing these guidelines with the public and gathering comments on the guidelines.

To further these goals, the proposed guidelines establish the source, base value, and method of application for VSL. The proposed guidelines also establish a ratio of child VSL to adult VSL.

III. Summary of the Proposed VSL Guidelines

CPSC seeks public comment on its proposed VSL guidelines, which are fully described in the draft guidance. The proposed guidelines state that:

1. CPSC staff will use HHS's VSL estimate for adults.

2. CPSC staff will double the adult VSL to establish the child VSL.

3. When adjusting the VSL, CPSC staff will account for changes in both the general price index (inflation) and real income using the method in HHS's *Guidelines for Regulatory Impact Analysis.*

4. CPSC staff will include in regulatory analyses a sensitivity analysis that use both high and low estimates for adult and child VSLs.

5. When estimating VSL in future years, CPSC staff will discount the resulting benefit values to reflect the time value of money, consistent with its approach for all cost and benefits estimates.

These guidelines and their sources are summarized in Table 2.

TABLE 2—SUMMARY OF CPSC VSL GUIDELINES

Variable	Guideline
Adult VSL	$11.6 million in 2021 dollars as of January 1, 2023. Based on HHS's VSL Guidance. CPSC will update this value as HHS updates with new VSL value.
Child VSL	$23.2 million in 2021 dollars as of January 1, 2023. Double the adult VSL. Doubling the VSL is based on findings from IEc's ''Valuing Reductions in Fatal Risks to Children'' and Robinson et al. (2019).
Inflation	Inflate to year where full annual data is available for price (inflation) and real income. Use data and formula in HHS VSL guidance.
Discount	Apply discount rate to all monetized values that are a function of VSL in future years.
Real income index	Use Current Population Survey Median Weekly Earnings for initial adjustment to year of analysis. For future years, use real earnings per worker growth rate from the Congressional Budget Office's Long-Term Budget Outlook.[16]
Income elasticity	Use value from HHS VSL guidance.

CPSC seeks public comment on the proposed VSL Guidelines, including specifically the following:

- The criteria and studies included in the IEc and Robinson et al. reviews, as well as any new studies;
- Alternative approaches for adjusting VSL for age.
- The estimation of VSL in these guidelines, especially child VSL.
- Any other applications of VSL that CPSC should address in its proposed draft guidance. and
- Any other general comments on child VSL and CPSC's proposed draft guidance.

The proposed guidance is available at: *https://www.cpsc.gov/s3fs-public/ProposedDraftGuidancefor EstimatingtheValueperStatistical Life.pdf?VersionId= YZhzsWkIsHuhzNVm8VmT FwxsjbbIuvw0.* The staff's briefing package on this matter is available on CPSC's website at: *https://www.cpsc.gov/s3fs-public/DraftFederalRegisterNoticeNoticeofAvailabilityProposedGuidanceforUsingValueofStatisticalLife.pdf?VersionId=QiWpCy7L9AvI17U.Mo3s.CyRkUdM2INf.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–06081 Filed 3–23–23; 8:45 am]

BILLING CODE 6355–01–P

[16] Congressional Budget Office, ''The 2022 Long-Term Budget Outlook'', Real Earnings per Worker (2022–2052) in Table B–1, 2022, *https://www.cbo.gov/publication/57971.*

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2022–HQ–0017]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2023.

ADDRESSES: Written comments and recommendations for the proposed

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

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Army Military Auxiliary Radio System (MARS) Application; Army MARS Form 1; OMB Control Number 0702–0140.

Type of Request: Revision.

Number of Respondents: 550.

Responses per Respondent: 1.

Annual Responses: 550.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 138.

Needs and Uses: The information collection requirement is necessary to operate a Military Auxiliary Radio System (MARS) Station. The MARS program is a civilian auxiliary consisting primarily of licensed amateur radio operators who are interested in assisting the military with communications on a local, national, and international basis as an adjunct to normal communications and providing worldwide auxiliary emergency communications during times of need. The information collection requirement is necessary not only an application to join ARMY MARS, but to maintain an accurate roster of civilians enrolled in the program for the purpose of providing contingency communications support to the DoD. Additionally, the collected information is used by the MARS program manager to determine an individual's eligibility for the program, as well as to initiate a background investigation should a security clearance be required. Location information may be used to show the geographic dispersion of the members who participate in the global High Frequency radio network in support of the DoD and to ensure our radio spectrum authorizations cover the geographic areas from which our members will operate. The information is also used periodically to email informational updates about the MARS program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 21, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–06168 Filed 3–23–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2023–HQ–0003]

Submission for OMB Review; Comment Request

AGENCY: Army Corps of Engineers, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2023.

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

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Vessel Operation Reporting; ENG Forms 3926, 3925, 3925B, 3925C, and 3925P; OMB Control Number 0710–0006.

Type of Request: Revision.

ENG Form 3926

Number of Respondents: 100.

Responses per Respondent: 12.

Annual Responses: 1,200.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 600.

ENG Form 3925/3925B/3925C/3925P

Number of Respondents: 450.

Responses per Respondent: 12.

Annual Responses: 5,400.

Average Burden per Response: 90 minutes.

Annual Burden Hours: 8,100.

Total

Number of Respondents: 550.

Annual Responses: 6,600.

Annual Burden Hours: 8,700.

Needs and Uses: The information collection requirement is necessary to determine usage on the nation's waterway network. The authority for the U.S. Army Corps of Engineers (USACE) to collect data on vessel operations and cargo movements is given by Section 11 of 42 Stat. 1043, the Rivers and Harbors Appropriation Act of 1922, as amended by Public Law 99–662 and codified in 33 U.S.C. 555. Using both the ENG 3925, ''Vessel Operation Report'' forms and ENG Form 3926, ''Record of Arrivals and Departures of Vessels,'' the Waterborne Commerce Statistics Center (WCSC) is able to paint a complete picture of vessel movements and cargo carried on U.S. waterways. Each set of data produced from the forms allows WCSC to ensure accuracy and completeness. The data are used to annually publish Waterborne Commerce of the United States (WCUS) Ports and Waterways which presents detailed data on the movements of vessels and commodities at the ports and harbors and on the waterways and canals of the United States and its territories. It also provides statistics on the foreign and domestic waterborne commerce moved through the U.S. waters. Congress receives this annual report, and the data contained therein are used in cost-benefit analyses for new projects, rehabilitation projects, and operations and maintenance of existing projects. It is also used by other Federal agencies involved in transportation and security. Researchers and private organizations also use the data regularly to help decide on which locales are best models for their studies/needs.

Affected Public: Business or other for-profit; individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Matthew Oreska.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 21, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–06166 Filed 3–23–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0109]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense (Comptroller), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2023.

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

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Contract Audit Agency Customer Relationship Management Tool; OMB Control Number 0704–DCRM.

Type of Request: New Collection.

Number of Respondents: 475.

Responses per Respondent: 1.

Annual Responses: 475.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 79.17.

Needs and Uses: DCAA needs to collect the data so as to conduct marketing, advertising, outreach, and recruitment activities with potential leads and applicants for employment. DCAA needs to manage all tracking and communications associated with potential leads so as to retain potential applicants during and through the recruitment and hiring process. DCAA needs the data to continuously engage with potential leads who may not initially meet minimum qualification requirements; who may have applied/submitted a resume but were not selected; or who meet all requirements except having graduated from college. DCAA needs the data to conduct data analytics for outreach and recruitment return on investment assessments; to better refine outreach strategies, and to measure effectiveness of marketing and advertising efforts/campaigns.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 21, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–06167 Filed 3–23–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2023–OS–0006]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant to the Secretary of Defense for Public Affairs (OASD(PA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2023.

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

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Joint Civilian Orientation Conference Program (JCOC) Eligibility of Nominators and Candidates; JCOC Nomination Form; JCOC Registration Form; JCOC Medical Form; OMB Control Number 0704–0562.

Type of Request: Extension without change.

Number of Respondents: 180.

Responses per Respondent: 1.

Annual Responses: 180.

Average Burden Per Response: 11 minutes.

Annual Burden Hours: 33.

Needs and Uses: Respondents are individuals authorized to nominate

candidates for participation in JCOC, and candidates nominated for and selected to participate in JCOC. The JCOC Nomination Form and Registration Form each record the nominator's credentials and contact information and the candidate's credentials and contact information. The completed forms are used to administer the JCOC program, verify the eligibility of nominators and candidates, and to select those nominated individuals for participation in JCOC, which is impossible to do without this information. Ensuring the credentials of nominators and candidates is vital to the integrity and accountability of the JCOC program.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 21, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–06164 Filed 3–23–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2023–SCC–0003]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Survey of Postgraduate Employment for the Foreign Language and Area Studies (FLAS) Fellowship Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before April 24, 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 Dana Sapatoru, 202–987–1944.

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: Survey of Postgraduate Employment for the Foreign Language and Area Studies (FLAS) Fellowship program.

OMB Control Number: 1840–0829.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 24,000.

Total Estimated Number of Annual Burden Hours: 4,500.

Abstract: The Foreign Language and Area Studies (FLAS) Fellowships program is authorized by 20 U.S.C. 1121(b) and provides allocations of academic year and summer fellowships to institutions of higher education or consortia of institutions of higher education to assist meritorious undergraduate and graduate students undergoing training in modern foreign languages and related area or international studies. This information collection is a survey of FLAS fellows required by 20 U.S.C. 1121(d) which states ''The Secretary shall assist grantees in developing a survey to administer to students who have completed programs under this subchapter to determine postgraduate employment, education, or training. All grantees, where applicable, shall administer such survey once every two years and report survey results to the Secretary.''

Dated: March 20, 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. 2023–06043 Filed 3–23–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Biological and Environmental Research Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open virtual meeting of the Biological and Environmental Research Advisory Committee (BERAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 20, 2023; 9:00 a.m.–5:30 p.m. EST; Friday, April 21, 2023; 8:30 a.m.–12:30 p.m. EST.

ADDRESSES: Public attendance for this meeting will be virtual via webcast

using Zoom. Instructions for Zoom, as well as any updates to meeting times or meeting agenda, can be found on the BERAC meeting website at: *https://science.osti.gov/ber/berac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Dr. Tristram West, Designated Federal Officer, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–33/Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585–1290. Telephone 301–903–5155; fax (301) 903–5051, or email: *tristram.west@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda:

- News from DOE Office of Science
- News from the Office of Biological and Environmental Research
- News from the Biological Systems Science and Earth and Environmental Systems Sciences Divisions
- Update from the BERAC Subcommittee on a Unified Data Framework
- Workshop briefings
- Briefings on BER data activities
- BERAC business and discussion
- Public comment

Public Participation: The two-day meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, please send an email request to both Tristram West at *tristram.west@science.doe.gov* and Andrew Flatness at *andrew.flatness@science.doe.gov.* You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will be limited to five minutes each.

Minutes: The minutes of this meeting will be available for public review and copying within 45 days at the BERAC website: *https://science.osti.gov/ber/berac/Meetings/BERAC-Minutes.*

Signed in Washington, DC, on March 21, 2023.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–06158 Filed 3–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Extension of a Currently Approved Information Collection for the Weatherization Assistance Program

AGENCY: Office of State and Community Energy Programs, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE or the Department), pursuant to the Paperwork Reduction Act of 1995), intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). The information collection request, Historic Preservation for Energy Efficiency Programs, was initially approved on December 1, 2010, under OMB Control No. 1910–5155 and expired on September 30, 2015. The information collection request was previously approved on February 24, 2020, under OMB Control No. 1910–5155 and its current expiration date was February 28, 2023. This extension will allow DOE to continue data collection on the status of the Weatherization Assistance Program (WAP), the State Energy Program (SEP), and the Energy Efficiency and Conservation Block Grant (EECBG) Program. Program activities will ensure compliance with the National Historic Preservation Act (NHPA).

DATES: Comments regarding this propose information collection must be received on or before April 24, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 881–8585.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Michael Tidwell, EE–5W, U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585–0121 or by email or phone at *michael.tidwell@ee.doe.gov,* (240) 285–8937.

Additional information and reporting guidance concerning the Historic Preservation reporting requirement for the WAP, SEP, and EECBG programs are available for review at: *www.energy.gov/eere/wipo/downloads/wpn10-12-historic-preservation-implementation.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) *OMB No.:* 1910–5155; (2) *Information Collection Request Title:* ''Historic Preservation for Energy Efficiency Programs''; (3) *Type of Review:* Extension of a Currently Approved Information Collection; (4) *Purpose:* To collect information on the status of the Weatherization Assistance Program, State Energy Program, and Energy Efficiency and Conservation Block Grant Program activities.

State Energy Program (SEP): This ICR will include Historic Preservation reporting for SEP Annual Appropriations, Infrastructure Investment and Jobs Act (IIJA) appropriations for SEP, and two new sub-programs of SEP established by IIJA—the Energy Efficiency Revolving Loan Program and the Energy Auditor Training Grant Program. *SEP Annual Appropriations:* On March 15, 2022, the President signed the Consolidated Appropriations Act of 2021, which appropriated $63,000,000 to SEP. As noted in SEP Program Notice 10–008E and 10–008F, SEP Grantees are required to complete Annual Historic Preservation Reports. *SEP IIJA Appropriations:* On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act (IIJA), which appropriated $500,000,000 for SEP to

provide Formula Grants to its Grantees (State Energy Offices). Grantees will use Formula Grants for similar activities as their Annual Appropriations grants, and Grantees will similarly be required to submit Annual Historic Preservation Reports for these IIJA grants. *Energy Efficiency Revolving Loan Fund Capitalization Grant Program:* The IIJA appropriated $250,000,000 to SEP to establish the Energy Efficiency Revolving Loan Fund Capitalization Grant Program, through which SEP will provide Capitalization Grants to SEP Grantees to establish revolving loan fund financing programs for energy efficiency projects in residential and commercial buildings. The grants will be allocated in part according to SEP's existing allocation formula, and development and implementation of financing programs are already a subset of activities for which Grantees can and have used Annual Appropriations grants. *Energy Auditor Training Grant Program:* The IIJA appropriated $40,000,000 to SEP to establish the Energy Auditor Training Grant Program, through which SEP will provide grants to certain SEP Grantees to train individuals to conduct energy audits or surveys of commercial and residential buildings.

Energy Efficiency and Conservation Block Grant (EECBG): This ICR will also include Historic Preservation reporting for the financing programs funded by the EECBG Program under the American Recovery and Reinvestment Act (ARRA) that grantees are required to report on into perpetuity. Through section 40552(b) of IIJA, Congress appropriated $550,000,000 to the EECBG Program for fiscal year 2022, to remain available until expended. The EECBG Program provides Federal grants to states, units of local government, and Indian tribes to assist eligible entities in implementing strategies to reduce fossil fuel emissions, to reduce total energy use, and to improve energy efficiency as outlined by the Program's authorizing legislation, title V, subtitle E of the Energy Independence, and Security Act of 2007 (EISA). EECBG Program grantees will be required to submit Annual Historic Preservation Reports. EECBG does not receive annual appropriations but was previously funded by ARRA in 2009. A portion of ARRA EECBG Program grantees that chose to fund and administer financing programs continue to report annually on Historic Preservation and are included in this ICR.

Weatherization Assistance Program (WAP): The third and final component of this ICR is the Historic Preservation Reporting for the WAP Formula and Competitive Grant activities. On March 15, 2022, the President signed the Consolidated Appropriations Act of 2021, which appropriated $334,000,000 to the WAP. In addition, the IIJA appropriated $3.5 billion for WAP. These funds are available for WAP formula activities along with WAP competitive grant recipients, all of which will be required to complete annual Historic Preservation Reports. (5) *Annual Estimated Number of Respondents:* 2,863; (6) *Annual Estimated Number of Total Responses:* 3,105; (7) *Annual Estimated Number of Burden Hours:* 6,548; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $363,217.56.

Statutory Authority: Title V, National Historic Preservation Act of 1966, Public Law 89–665 as amended (16 U.S.C. 470 *et seq.*).

Signing Authority

This document of the Department of Energy was signed on March 20, 2023, by Kathleen Hogan, Principal Deputy Under Secretary for Infrastructure, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 21, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–06140 Filed 3–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1416–000]

PGR 2022 Lessee 1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of PGR 2022 Lessee 1, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06145 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–64–000.
Applicants: Porterhouse Wind (4) LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Porterhouse Wind (4) LLC.
Filed Date: 3/17/23.
Accession Number: 20230317–5174.
Comment Date: 5 p.m. ET 4/7/23.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–99–000.
Applicants: Newport Solar, LLC.
Description: Newport Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/17/23.
Accession Number: 20230317–5155.
Comment Date: 5 p.m. ET 4/7/23.

Docket Numbers: EG23–100–000.
Applicants: CED Peregrine Solar, LLC.
Description: CED Peregrine Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/17/23.
Accession Number: 20230317–5158.
Comment Date: 5 p.m. ET 4/7/23.

Docket Numbers: EG23–101–000.
Applicants: Waverly Solar, LLC.
Description: Waverly Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/20/23.
Accession Number: 20230320–5071.
Comment Date: 5 p.m. ET 4/10/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1981–002; ER22–2505–001; ER22–2827–002; ER17–1984–002; ER23–1004–000; ER22–2506–001; ER23–1005–000; ER17–1988–002.
Applicants: Patton Wind Farm, LLC, Vitol PA Wind Marketing LLC, Vitol Inc., MD Solar 2, LLC, Highland North LLC, Bluegrass Solar, LLC, Big Sky Wind, LLC, Big Savage, LLC.
Description: Supplement to January 31, 2023, Notice of Change in Status of Big Savage, LLC, et al.
Filed Date: 3/15/23.
Accession Number: 20230315–5225.
Comment Date: 5 p.m. ET 4/5/23.

Docket Numbers: ER20–1739–004.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: Compliance filing: American Transmission Systems, Incorporated submits tariff filing per 35: ATSI Order No. 864 Limited Compliance Filing in ER20–1739 to be effective 1/27/2020.
Filed Date: 3/20/23.
Accession Number: 20230320–5042.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER20–1951–004.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: Compliance filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35: MAIT Order No. 864 Limited Compliance Filing in ER20–1951 to be effective 1/27/2020.
Filed Date: 3/20/23.
Accession Number: 20230320–5050.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER22–2462–001.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Compliance filing: Alabama Power Company submits tariff filing per 35: Compliance Filing in Response to Order on Compliance (OATT Attachment N) to be effective 7/23/2022.
Filed Date: 3/20/23.
Accession Number: 20230320–5088.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1420–000.
Applicants: Union Energy Center, LLC.
Description: Union Energy Center, LLC submits Limited Waiver Request of Section 30.8.1 of Attachment X of NYISO OATT.
Filed Date: 3/16/23.
Accession Number: 20230316–5186.
Comment Date: 5 p.m. ET 4/6/23.

Docket Numbers: ER23–1421–000.
Applicants: Dominion Energy South Carolina, Inc.
Description: § 205(d) Rate Filing: Orangeburg DPU CIAC to be effective 5/20/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5017.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1422–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Corn Belt Power Cooperative Formula Rate Revisions to be effective 6/1/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5022.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1423–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 6831; Queue No. AE2–176 to be effective 2/17/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5041.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1424–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Southwest Texas Electric Cooperative Amended TSA to be effective 2/28/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5056.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1425–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to IISA, Service Agreement No. 6573; Queue No. AF2–083 to be effective 5/19/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5089.
Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1426–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: § 205(d) Rate Filing: O&R Undergrounding 3–2023 to be effective 4/1/2023.
Filed Date: 3/20/23.
Accession Number: 20230320–5114.
Comment Date: 5 p.m. ET 4/10/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06151 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1411–000]

Newport Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Newport Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06149 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1413–000]

Landrace Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Landrace Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06147 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1418–000]

AES WR Limited Partnership; 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 AES WR Limited Partnership'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 April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06144 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1414–000]

PGR 2021 Lessee 18, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of PGR 2021 Lessee 18, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06148 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1410–000]

Fifth Standard Solar PV, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Fifth Standard Solar PV, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06150 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1415–000]

Virginia Line Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Virginia Line Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 10, 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 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06146 Filed 3–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Olmsted Powerplant Replacement Project—Rate Order No. WAPA–205

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order concerning electric power service formula rate.

SUMMARY: The formula rate for the Colorado River Storage Project (CRSP) Management Center's (MC) Olmsted Powerplant Replacement Project (Olmsted Project) has been confirmed, approved, and placed into effect on an interim basis (Provisional Formula Rate). The new formula rate, under Rate Schedule Olmsted F–2, replaces the existing formula rate for this service, under Rate Schedule Olmsted F–1, which expires on May 6, 2023. A change was made to the definition of Formula Rate in the Rate Schedule F–2 to reflect that the Annual Revenue Requirement is multiplied by the Customer's allocation percentage. The new formula rate under Rate Schedule Olmsted F–2 is effective May 1, 2023, through April 30, 2028.

DATES: The provisional formula rate under Rate Schedule Olmsted F–2 is effective on the first day of the first full billing period beginning on or after May 1, 2023, and will remain in effect through April 30, 2028, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

FOR FURTHER INFORMATION CONTACT: Rodney Bailey, CRSP Manager, CRSP Management Center, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401, or email: *CRSPMC-rate-adj.gov,* or Thomas Hackett, Rates Manager, CRSP Management Center, Western Area Power Administration, 801–524–5503, or email: *hackett@wapa.gov.*

SUPPLEMENTARY INFORMATION: On August 30, 2018, FERC confirmed and approved Rate Schedule F–1 under Rate Order No. WAPA–177 on a final basis through May 6, 2023.[1] This schedule applies to the Olmsted Project electric power service. Western Area Power Administration (WAPA) published a **Federal Register** notice (Proposed FRN) on November 10, 2022 (87 FR 67894), proposing no changes to the existing formula rate under Rate Order WAPA–177, but establishing a new rate period for the formula Rate Schedule Olmsted

[1] Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF18–4–000, 164 FERC ¶ 62,116 (2018).

F–2. The Proposed FRN also initiated a 30-day public consultation and comment period on the new rate schedule.

Legal Authority

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2022–2, effective June 13, 2022, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2022, effective June 13, 2022, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2022 and Department of Energy procedures for public participation in rate adjustments set forth at 10 CFR part 903.[2]

Following a review of CRSP MC's proposal, Rate Order No. WAPA–205, which provides the formula rate for the Olmsted Powerplant Replacement Project, is hereby confirmed, approved, and placed into effect on an interim basis. WAPA will submit Rate Order No. WAPA–205 to FERC for confirmation and approval on a final basis.

Department of Energy Administrator, Western Area Power Administration

In the Matter of: Western Area Power Administration, Colorado River Storage Project Management Center, Rate Adjustment for the Olmsted Powerplant Replacement Project, Electric Power Service Formula Rate
Rate Order No. WAPA–205

Order Confirming, Approving, and Placing the Formula Rate for the Olmsted Powerplant Replacement Project Into Effect on an Interim Basis

The formula rate in Rate Order No. WAPA–205 is established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).[1]

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Western Area Power Administration (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2022–2, effective June 13, 2022, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No.S3–DEL–WAPA1–2022, effective June 13, 2022, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2022 and DOE procedures for public participation in rate adjustments set forth at 10 CFR part 903.[2]

Acronyms, Terms, and Definitions

As used in this Rate Order, the following acronyms, terms, and definitions apply:

Allocation: A portion of the Olmsted Project assigned to a particular customer.

Capital Repayment: The total amount of principal and interest applied to repay capital projects.

Customer: An entity with a contract receiving an allocation of the Olmsted Project generation.

Customer Rate Brochure: A document prepared for public distribution explaining the rationale and background for the information contained in this rate order.

Energy: Measured in terms of the work it can do over time. Electric energy is expressed in kilowatt-hours or megawatt-hours.

FY: WAPA's fiscal year; October 1 to September 30.

Installments: Annual Revenue Requirement billed to customers in 12 equal monthly amounts.

Marketable Energy: The generation made available for sale.

NEPA: National Environmental Policy Act of 1969, as amended.

O&M: Operation and maintenance expenses.

OM&R: Operation, maintenance, and replacement expenses.

Order RA 6120.2: DOE Order outlining the power marketing administration financial reporting and rate-making procedures.

Power: Energy (there is no capacity for Olmsted as it is an Energy only project).

Power Repayment Study (PRS): Defined in Order RA 6120.2 as a study portraying the annual repayment of power production and transmission costs of a power system through the application of revenues over the repayment period of the power system. The study shows, among other items, estimated revenues and expenses, year by year, over the remainder of the power system's repayment period (based upon conditions prevailing over the cost evaluation period), the estimated amount of Federal investment amortized during each year, and the total estimated amount of Federal investment remaining to be amortized.

Provisional Formula Rate: A formula rate confirmed, approved, and placed into effect on an interim basis by the Secretary or his/her designee.

Revenue Requirement: The revenue required by the PRS to recover annual expenses (such as operation and maintenance, interest, and deferred expenses) and repay Federal investments and other assigned costs.

Effective Date

The Provisional Formula Rate Schedule Olmsted F–2 will take effect on the first day of the first full billing period beginning on or after May 1, 2023, and will remain in effect through April 30, 2028, pending approval by FERC on a final basis or until superseded.

Public Notice and Comment

CRSP MC followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing this formula rate. The steps CRSP MC took to involve interested parties in the rate process included:

1. On November 10, 2022, a **Federal Register** notice (87 FR 67894) (Proposed FRN) announced the proposed formula rate and launched a 30-day public consultation and comment period.

2. On November 10, 2022, CRSP MC notified Customers and interested parties of the proposed rate and

[2] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

[1] This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

[2] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

provided a copy of the published Proposed FRN.

3. CRSP MC provided a website that contained all dates, letters, presentations, the FRN, a Customer Rate Brochure, and other information about this rate process. The website is located at *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

4. The 30-day consultation and comment period ended on December 12, 2022. CRSP MC received no oral or written comments.

Power Repayment Study—Electric Power Service Formula Rate

CRSP MC prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the Olmsted Project. Repayment criteria are based on applicable laws, legislation, and policies, including Order RA 6120.2. To meet the Cost Recovery Criteria outlined in Order RA 6120.2, CRSP MC developed a formula rate to demonstrate that sufficient revenues will be collected under the Provisional Formula Rate to meet future obligations.

A change was made to the definition of Formula Rate in the Rate Schedule F–2 to reflect that the Annual Revenue Requirement is multiplied by the Customer's allocation percentage. Each customer will continue to be billed for its proportional share of the Olmsted Project Revenue Requirement. The Revenue Requirement is calculated every FY and is payable in 12 monthly Installments. CRSP MC will forecast Olmsted Project FY expenses by preparing a PRS, which will include estimates of future OM&R, associated interest expenses, and other assigned costs. This repayment schedule does not depend on the energy made available for sale or the year's generation amount. The amount of each monthly installment is established in advance and submitted to the Customers on or before August 31 of the year preceding the appropriate FY. Customers are to pay reimbursable investment and the OM&R of the Olmsted Project and, in return, will receive all marketable Energy produced.

CRSP MC will calculate the revenue requirement based on two years of data. The calculation also includes an adjustment. The adjustment is the surplus or deficit in the last historic year when actual costs and repayment obligations are subtracted from revenues. This surplus or deficit is combined with the projected revenue requirement year costs to arrive at the annual revenue requirement. Each customer's annual installment pays the annual amortized portion of the United States' investment in the Olmsted Project with interest and the associated OM&R.

To date, all investments not currently in progress (or in progress and not yet complete), are accounted for as Construction in Progress costs and have not been transferred to plant accounts for capitalization. Once transferred, an amortization schedule will be calculated for repayment. Historical financial data is available through FY 2021. Current projections are based on the FY 2024 Reclamation and WAPA work plans received in February 2022, as indicated in Table 1. WAPA will update these projections on the website as data becomes available.

TABLE 1—ACTUAL & PROJECTED INVESTMENT AND O&M, AND CAPITAL REPAYMENT

FY	2022	2023	2024	2025	2026	2027
Capital Repayment	$385,144	$408,263	$408,973	$408,898	$408,821	$408,742
CUWCD Olmsted O&M	709,657	1,029,299	1,017,876	483,559	562,421	543,187
USBR O&M	27,500	10,000	27,500	27,500	10,000	10,000
WAPA O&M	17,357	19,177	19,560	19,951	20,350	20,757
Provo Facility Use	118,841	118,841	118,841	118,841	118,841	118,841
FY Totals	1,258,498	1,585,580	1,575,250	1,058,749	1,120,434	1,101,527

The FY 2023 annual revenue requirement includes all projected FY 2023 OM&R requiring repayment through FY 2023. Annual installments are established in advance by WAPA and submitted to the Olmsted Project customers on August 31, before the new FY. The FY 2024 annual installment will include all actual OM&R requiring repayment from the FY 2022 final financial data, the projected FY 2025 OM&R work plan, and amortized payments on capital investments plus interest. Subsequent annual installment updates will use updated financial data from appropriate conforming years.

Comments

CRSP MC received no oral or written comments during the public consultation and comment period.

Certification of Rates

I have certified that the Provisional Formula Rate for the Olmsted Project electric power service under Rate Schedule Olmsted F–2 is the lowest possible rate, consistent with sound business principles. The Provisional Formula Rate was developed following administrative policies and applicable laws.

Availability of Information

Information about this rate adjustment, including the Customer Rate Brochure, PRSs, comments, letters, memorandums, and other supporting materials used to develop the Provisional Formula Rate, is available for inspection and copying at the CRSP MC Regional Office, 1800 South Rio Grande Avenue, Montrose, CO. Many of these documents are also available on WAPA's website at *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

Ratemaking Procedure Requirements

Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR 1021.410: B4.3 (Electric power marketing rate changes). Categorically excluded projects and activities do not require the preparation of either an environmental impact statement or an environmental assessment.[3] A copy of the categorical exclusion determination is available on WAPA's website at *www.wapa.gov/regions/CRSP/rates/Pages/rate-order-205.aspx.*

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

[3] The determination was done in compliance with NEPA (42 U.S.C. 4321–4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rate is herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above, and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA–205. The rate will remain in effect on an interim basis until: (1) FERC confirms and approves it on a final basis; (2) a subsequent rate is confirmed and approved; or (3) such rate is superseded.

Signing Authority

This document of the Department of Energy was signed on March 14, 2023, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only and in compliance with Office of the Federal Register requirements, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 21, 2023.

Treena V. Garrett

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

Rate Schedule Olmsted F–2
(Supersedes Rate Schedule F–1)

United States Department of Energy

Western Area Power Administration

Colorado River Storage Project Management Center

Olmsted Powerplant Replacement Project

Electric Power Service

(Approved Under Rate Order No. WAPA–205)

Effective

The first day of the first, full billing period beginning on or after May 1, 2023, and extending through April 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

Within the marketing area served by the Colorado River Storage Project; parts of Northern Utah.

Applicable

To the sale of total plant generation to all customers with an Olmsted Project allocation.

Character

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Formula Rate

Annual Revenue Requirement (Projected Operations, Maintenance, and Replacement Costs + Projected Interest + Projected Principal Payments ± True-Up Adjustment) × Customer's Allocation Percentage.

Adjustments

True-Up Adjustment: The surplus or deficit that occurred in the last historic year when actual costs and repayment obligations are subtracted from actual revenues.

Adjustment for Power Factor: The customer will be required to maintain a power factor at all points of measurement between 95 percent lagging and 95 percent leading.

[FR Doc. 2023–06142 Filed 3–23–23; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10806–01–OA]

Notification of a Public Meeting of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Ozone Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Ozone Review Panel to discuss a draft CASAC report on EPA's Ozone Policy Assessment (PA).

DATES: The public meeting will be held on May 23, 2023, from 11:00 a.m. to 3:00 p.m. and May 24, 2023, from 11 a.m. to 3 p.m. All times listed are in Eastern Time.

ADDRESSES: The meeting will be conducted virtually. Please refer to the CASAC website at *https://casac.epa.gov* for details on how to access the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this notice may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564–2050 or via email at *yeow.aaron@epa.gov*. General information concerning the CASAC, as well as any updates concerning the meetings announced in this notice can be found on the CASAC website: *https://casac.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend to the EPA Administrator any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also: advise the EPA Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised NAAQS; describe the research efforts necessary to provide the required information; advise the EPA Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity; and advise the EPA Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such NAAQS. As amended, 5 U.S.C., App. Section 109(d)(1) of the Clean Air Act (CAA) requires that EPA carry out a periodic review and revision, as appropriate, of the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including ozone.

The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2, and conducts business in accordance with FACA and related regulations. The CASAC and the CASAC Ozone Review Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered CASAC and CASAC Ozone Review Panel will hold a public meeting to discuss a draft CASAC report on EPA's Ozone PA.

Technical Contacts: Any technical questions concerning EPA's Ozone PA should be directed to Ms. Leigh Meyer (*meyer.leigh@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible on the CASAC website: *https://casac.epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the CASAC and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral Statements: Individuals or groups requesting an oral presentation during the public meeting will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by May 16, 2023, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by May 16, 2023. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact the DFO, at the contact information noted above, preferably at least ten days prior to each meeting, to give EPA as much time as possible to process your request.

V. Khanna Johnston,

Deputy Director, Science Advisory Board Staff Office.

[FR Doc. 2023–06040 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0057; FRL–10834–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (EPA ICR Number 1060.20, OMB Control Number 2060–0038), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 24, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0057, to EPA online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** (87 FR 20847) on April 8, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (40 CFR part 60, subpart AA) were proposed on October 21, 1974, promulgated on September 23, 1975, and most-*recently amended* on February 22, 2005. These regulations apply to electric arc furnaces and dust-handling systems that commenced construction, modification, or reconstruction either after October 21, 1974 or on/or before August 17, 1983 at steel plants that produce carbon, alloy, or specialty steels. In addition, the New Source Performance Standards (NSPS) for these regulations (40 CFR part 60, subpart AAa) were proposed on August 17, 1983, promulgated on October 31, 1984, and most recently-amended on February 22, 2005. These

latter regulations apply to electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that commenced construction, modification, or reconstruction after August 17, 1983 at steel plants that produce carbon, alloy, or specialty steels. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subparts AA and AAa. EPA proposed revisions to Subparts AA and AAa and proposed a new Subpart AAb on May 16, 2022 (87 FR 29710). The burden for these requirements is not included in this renewal and will be accounted for once the rule is finalized. In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form numbers: None.

Respondents/affected entities: Steel plants that produce carbon, alloy, or specialty steels.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts AA and AAa).

Estimated number of respondents: 90 (total).

Frequency of response: Initially, semiannually.

Total estimated burden: 56,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $7,000,000 (per year), which includes $198,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the estimates: There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in the burden and cost estimates is due to a decrease in the average number of respondents per year subject to subparts AA and AAa based on information gathered by EPA for a proposed rulemaking. Although there was a decrease in the average number of respondents per year, there was an increase in the number of new sources each year. This resulted in an adjustment increase to the total capital/startup cost. There is an adjustment decrease in the operation and maintenance (O&M) costs as calculated in section 6(b)(iii) compared with the costs in the previous ICR due to the decreased number of respondents based on more recent information provided by EPA.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06049 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0691, FRL–10837–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Standardized Permit for RCRA Hazardous Waste Management Facilities (Renewal)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Standardized Permit for RCRA Hazardous Waste Management Facilities (EPA ICR Number 1935.07, OMB Control Number 2050–0182) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on July 15, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 24, 2023.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2018–0691, to EPA, either online using *www.regulations.gov* (our preferred method), or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT: Jeff Gaines, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0332; *gaines.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** (87 FR 42460) on July 15, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov*. Materials can also be viewed at the Reading Room located at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays). The telephone number for the Docket Center is 202–566–1744.

Abstract: Under the authority of sections 3004, 3005, 3008 and 3010 of the Resource Conservation and Recovery Act (RCRA), as amended, EPA revised the RCRA hazardous waste permitting program to allow a ''standardized permit.'' The standardized permit is available to facilities that generate hazardous waste and routinely manage the waste on-site in non-thermal units such as tanks, containers, and containment buildings. In addition, the standardized permit is available to facilities that receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then store or non-thermally treat the hazardous waste in containers, tanks, or containment buildings. The RCRA standardized permit consists of two components: a uniform portion that is included in all cases, and a supplemental portion that the Director of a regulatory agency

includes at his or her discretion. The uniform portion consists of terms and conditions, relevant to the unit(s) at the permitted facility, and is established on a national basis. The Director, at his or her discretion, may also issue a supplemental portion on a case-by-case basis. The supplemental portion imposes site-specific permit terms and conditions that the Director determines necessary to institute corrective action under section 264.101 (or state equivalent), or otherwise necessary to protect human health and the environment. Owners and operators have to comply with the terms and conditions in the supplemental portion, in addition to those in the uniform portion.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are business or other for-profit.

Respondent's obligation to respond: Voluntary (40 CFR 270.275).

Estimated number of respondents: 1.

Frequency of response: One time.

Total estimated burden: 218 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $19,873 (per year), includes $693 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in hour burden included in this ICR. There is a slight increase in capital/O&M costs due to updated estimates.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06115 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0154; FRL–10803–01–OCSPP]

FIFRA Scientific Advisory Panel; Examination of Microcosm/Mesocosm Studies for Evaluating the Effects of Atrazine on Aquatic Plant Communities; Request for Nominations of Ad Hoc Expert Reviewers and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or ''Agency'') is seeking public nominations of scientific and technical experts that EPA can consider for service as *ad hoc* reviewers assisting the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) with the review of the Agency's reevaluation of 11 atrazine microcosm and mesocosm studies identified by the 2012 FIFRA SAP as warranting further review. EPA currently anticipates selecting approximately 8–12 *ad hoc* reviewers and plans to make a list of candidates under consideration as prospective *ad hoc* reviewers for this review available for public comment by late May 2023. EPA is also announcing that a virtual public meeting of the FIFRA SAP is being scheduled in August 2023. In July 2023, EPA plans to release the reevaluation document submitted to the FIFRA SAP for peer review, along with all background documents, related supporting materials and draft charge questions provided to the FIFRA SAP. At that time, EPA will publish a separate document in the **Federal Register** to announce the availability of and solicit public comment on the draft reevaluation document and provide instructions for submitting comments and registering to provide oral comments at the August 2023 meeting.

DATES: The following is a chronological listing of the dates for the specific activities that are described in more detail under **SUPPLEMENTARY INFORMATION.**

April 24, 2023—Deadline for submitting all nominations to EPA.

August 8, 2023—Deadline for submitting a request for special accommodations to allow EPA time to process the request before the meeting.

August 22–24, 2023, from 10 a.m. to approximately 5:30 p.m. (ET)—The public virtual meeting will be held via a webcast platform such as ''*Zoomgov.com*'' and audio teleconference, and you must register to receive the links.

ADDRESSES: *Nominations:* Submit your nominations via email to the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.**

Special accommodations: For information on meeting access or services for individuals with disabilities, and to request accommodation for a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Contact the DFO, Tamue Gibson, Mission Support Division, Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency; telephone number: (202) 564–7642 or call the FIFRA SAP main office at (202) 564–8450; email address: *gibson.tamue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What action is the Agency taking?

The Agency is seeking public nominations of scientific and technical experts that the EPA can consider for service as *ad hoc* reviewers assisting the FIFRA SAP with the review of the Agency's reevaluation of 11 atrazine microcosm and mesocosm studies identified by the 2012 FIFRA SAP as warranting further review. The EPA is also announcing the scheduling of a 3-day public virtual meeting for the FIFRA SAP to review the reevaluation document. The EPA will be soliciting comments from the FIFRA SAP on the reanalysis document related to 11 microcosm and mesocosm studies examining the toxicity of atrazine to *the exposed* aquatic plant communities.

This document provides instructions for submitting nominations for *ad hoc* reviewers, requesting special accommodations for the public virtual meeting, and accessing the materials provided to the FIFRA SAP. The EPA will publish a separate document in the **Federal Register** in early July 2023 to announce the availability of and solicit public comment on the reevalation document, and to provide instructions for submitting comments, and registering to provide oral comments.

B. Does this action apply to me?

This action is directed to the public in general.

C. What should I consider as I submit my nominations to EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI or other sensitive information to EPA through *https://www.regulations.gov* or email. If your nomination contains any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting that information.

2. *Tips for preparing comments.* When preparing and submitting your comments, see Tips for Effective Comments at *https://www.epa.gov/dockets.*

II. Nominations for Ad Hoc Reviewers

A. What is the purpose of the FIFRA SAP?

The FIFRA SAP serves as one of the primary scientific peer review mechanisms of EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and is structured to provide independent scientific advice, information, and recommendations to the EPA Administrator on pesticides

and pesticide-related issues as to the impact of regulatory actions on human health and the environment. The FIFRA SAP is a federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act (5 U.S.C. 10). The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA established a Science Review Board consisting of at least 60 scientists who are available to the FIFRA SAP on an *ad hoc* basis to assist in reviews conducted by the FIFRA SAP. As a scientific peer review mechanism, the FIFRA SAP provides comments, evaluations, and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Why is EPA seeking nominations for ad hoc reviewers?

As part of a broader process for developing a pool of candidates for FIFRA SAP peer reviews, EPA is asking the public and stakeholder communities for nominations of scientific and technical experts that EPA can consider as prospective candidates for service as *ad hoc* reviewers assisting the FIFRA SAP with the peer reviews. Any interested person or organization may nominate qualified individuals for consideration as prospective candidates for this review by following the instructions provided in this document. Individuals may also self-nominate.

Those who are selected from the pool of prospective candidates will be invited to attend the public meeting and to participate in the discussion of key issues and assumptions at the meeting. In addition, they will be asked to review and to help finalize the meeting minutes.

C. What expertise is sought for this peer review?

Individuals nominated for this FIFRA SAP peer review, should have expertise in one or more of the following areas: Aquatic Plant Community Ecology; Aquatic Community Ecology; Plant Community Ecology; Algae Community Ecology; Aquatic Plant Ecology; Aquatic Toxicity; Ecotoxicity; Plant Toxicity; Algae Toxicity; and Mesocosm and Microcosm Experiments. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this review.

D. How do I make a nomination?

By the deadline indicated under **DATES**, submit your nomination to the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Each nomination should include the following information: Contact information for the person making the nomination; name, affiliation, and contact information for the nominee; and the disciplinary and specific areas of expertise of the nominee.

E. Will ad hoc reviewers be subjected to an ethics review?

FIFRA SAP members and *ad hoc* reviewers are subject to the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, conflict of interest statutes in Title 18 of the United States Code and related regulations. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, testimonies, and where applicable, sources of research support. EPA will evaluate the candidates' financial disclosure information to assess whether there are financial conflicts of interest, appearance of a loss of impartiality, or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for selection and service on the FIFRA SAP.

F. How will EPA select the ad hoc reviewers?

The selection of scientists to serve as *ad hoc* reviewers for the FIFRA SAP is based on the function of the Panel and the expertise needed to address the Agency's charge to the Panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a federal department or Agency or their employment by a federal department or Agency, except EPA. Other factors considered during the selection process include availability of the prospective candidate to fully participate in the Panel's reviews, absence of any conflicts of interest or appearance of loss of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of loss of impartiality, lack of independence, and bias may result in non-selection, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP.

Numerous qualified candidates are often identified for FIFRA SAP reviews. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives across reviewers. The Agency will consider all nominations of prospective candidates for service as *ad hoc* reviewers for the FIFRA SAP that are received on or before the date listed in the **DATES** section of this document. However, final selection of *ad hoc* reviewers is a discretionary function of the Agency. At this time, EPA anticipates selecting approximately 8–12 *ad hoc* reviewers to assist the FIFRA SAP in their review of the designated topic.

The EPA plans to make a list of candidates under consideration as prospective *ad hoc* reviewers for this review available for public comment by late-May 2023. The list will be available in the docket at *https://www.regulations.gov* (Docket ID No. EPA–HQ–OPP–2023–0154) and on the FIFRA SAP website. You may also subscribe to the following listserv for alerts regarding this and other FIFRA SAP-related activities: *https://public.govdelivery.com/accounts/USAEPAOPPT/subscriber/new?topic_id=USAEPAOPPT_101.T.*

III. Public Virtual Meeting of the FIFRA SAP

A. What is the purpose of this public meeting?

The focus of the 3-day public virtual meeting is to seek the FIFRA SAP's input on the Agency's 2023 reevaluation of 11 atrazine microcosm and mesocosm (hereafter 'cosm') studies identified at the 2012 SAP meeting as warranting further review. The Agency would like the FIFRA SAP's feedback on its evaluation of these 11 cosm studies, their potential inclusion or exclusion in the analysis, and if appropriate, whether they show an effect or no effect on the aquatic plant community.

B. Why did EPA develop this document?

The EPA participated in several FIFRA SAP meetings related to atrazine's impact on the environment (*e.g.,* 2003, 2007, 2009, 2012). In June 2012, the EPA presented the Problem Formulation for the Environmental Fate and Ecological Risk Assessment for Atrazine to the FIFRA SAP. That

problem formulation provided an overview of atrazine use, exposure, and toxicity for assessing the ecological risk from atrazine use. One of the major considerations for the 2012 FIFRA SAP was the process that the EPA used to estimate an aquatic plant community-based concentration equivalent-level of concern (CE–LOC). The CE–LOC is a 60-day average concentration of atrazine that, when exceeded, presents a greater than 50 percent chance of negatively affecting the productivity, structure, and/or function of an aquatic plant community.

Cosm studies examining the toxicity of atrazine to aquatic plant communities are a significant part of the process to estimate the CE–LOC. Accordingly, from 2002 to 2016, the EPA considered over 70 cosm studies obtained from the open literature or submitted to the EPA. The 2012 FIFRA SAP identified 11 specific cosm studies from that dataset (Table 1, page 42–43 of the meeting report) as warranting further review (in terms of their inclusion/exclusion in the analysis or the effect/no effect determinations for specific measured endpoints) because of concerns about study design or performance flaws, as well as the interpretation of results.

In response to the 2012 FIFRA SAP, the EPA re-evaluated the 11 specific cosm studies identified by the FIFRA SAP and presented this re-evaluation in the 2013 ''*Addendum to the Problem Formulation for the Ecological Risk Assessment to be Conducted for the Registration Review of Atrazine*'' (*https://www.regulations.gov/document/EPA-HQ-OPP-2013-0266-0002*) and the 2016 ''*Refined Ecological Risk Assessment for Atrazine.*'' (*https://www.regulations.gov/document/EPA-HQ-OPP-2013-0266-0315*). In conducting this 2013/2016 re-evaluation, the EPA considered comments from the 2012 FIFRA SAP and the public. This re-evaluation did not result in a change in the Agency's understanding or interpretation of those 11 studies. After the issuance of the 2016 ecological risk assessment and the 2022 ''Proposed Revisions to the Atrazine Interim Registration Review Decision,'' the EPA received additional public comments about the 11 studies including a reminder that the EPA had stated in 2016 its intent to convene a FIFRA SAP meeting, along with renewed requests to convene a FIFRA SAP meeting regarding the studies.

The EPA is returning to the FIFRA SAP to seek feedback on the outcome of the EPA's new 2023 evaluation regarding the inclusion of the 11 studies, and if appropriate, effect/no effect determinations for specific measured endpoints from the studies that were identified by the 2012 FIFRA SAP.

C. How can I access the documents submitted for review to the FIFRA SAP?

The EPA is planning to release the reevaluation document mentioned previously and all background documents, related supporting materials, and draft charge questions provided to the FIFRA SAP by early July 2023. At that time, EPA will publish a separate document in the **Federal Register** to announce the availability of and solicit public comment on the draft document and provide instructions for submitting comments and registering to provide oral comments. These materials will also be available in the docket through *https://www.regulations.gov* (Docket ID No. EPA–HQ–OPP–2023–0154) and the FIFRA SAP website. In addition, as additional background materials become available and are provided to the FIFRA SAP, EPA will include those additional background documents (*e.g.,* FIFRA SAP members and consultants participating in this meeting and the meeting agenda) in the docket and on the FIFRA SAP website.

D. How can I participate in the public virtual meeting?

The public virtual meeting will be held via a webcast platform such as ''*Zoomgov.com*'' and audio teleconference. You must register online to receive the webcast meeting link and audio teleconference information. Please follow the registration instructions that will be announced on the FIFRA SAP website in July 2023. You may subscribe to the following listserv for alerts regarding this and other FIFRA SAP-related activities: *https://public.govdelivery.com/accounts/USAEPAOPPT/subscriber/new?topic_id=USAEPAOPPT_101.T.*

Authority: 5 U.S.C. 10; 7 U.S.C. 136 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: March 20, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–06038 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0439; FRL–10832–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules'' (EPA ICR Number 1896.12, OMB Control Number 2040–0204) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on December 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 24, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2011–0442, to EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT: Kevin Roland, Drinking Water Infrastructure Development Division, Office of Ground Water and Drinking Water, (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4588: fax number: 202–564–3755; email address: *roland.keving@epa.gov*.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on December 15, 2021 during a 60-day comment period (86 FR 71265). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules ICR examines public water system and primacy agency burden and costs for recordkeeping and reporting requirements in support of the microbial drinking water regulations. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following regulations are included: the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR), the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR), the Chemical Phase Rules (Phases II/IIB/V), the Radionuclides Rule, Disinfectant Residual Monitoring and Associated Activities under the Surface Water Treatment Rule (SWTR),[1] the Arsenic Rule and the Lead and Copper Rule (LCR), including the Lead and Copper Rule Short Term Revisions. Future chemical-related rulemakings will be added to this consolidated ICR after the regulations are promulgated and the initial, rule-specific, ICRs are due to expire.

Form numbers: None.

Respondents/affected entities: Public water systems and primacy agencies.

Respondent's obligation to respond: Mandatory for compliance with 40 CFR parts 141 and 142.

Estimated number of respondents: 144,197 (total).

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, and annually).

Total estimated burden: 5,652,398 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $593,972,000 (per year), which includes $319,880,000 annualized capital or operation & maintenance costs.

Changes in the estimates: There is an increase of 491,043 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This is due to increases in burden from the previous ICR for LCR sampling, analysis and report writing from industry consultation.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06037 Filed 3–23–23; 8:45 am]

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[1] Includes only SWTR components relating to disinfectant residual monitoring and associated activities. All remaining SWTR requirements are included in the Microbial Rules ICR.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0443; FRL–10831–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Public Water System Supervision Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an Information Collection Request (ICR) for the Public Water System Supervision Program (EPA ICR Number 0270.48, OMB Control Number 2040–0090) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on December 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 24, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2011–0443, EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov* or by mail to EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT: Kevin Roland, Drinking Water Infrastructure Development Division, Office of Ground Water and Drinking Water, (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4588: fax number: 202–564–3755; email address: *roland.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on December 15, 2021 (86 FR 71265) during a 60-day comment period. This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The Public Water System Supervision (PWSS) Program ICR examines public water systems, primacy agencies (*i.e.,* states and tribes with primary enforcement authority) and tribal operator certification provider burden, and costs for ''cross-cutting'' recordkeeping and reporting requirements (*i.e.,* the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings). The following activities have recordkeeping and reporting requirements that are mandatory for compliance with the *Code of Federal Regulations* (CFR) at 40 CFR parts 141 and 142: the Consumer Confidence Report Rule (CCR), the Variance and Exemption Rule (V/E Rule), General State Primacy Activities, the Public Notification Rule (PN), and Proficiency Testing Studies for Drinking Water Laboratories. The information collection activities for both the Operator Certification and the Capacity Development Program are driven by the grant withholding and reporting provisions under sections 1419 and 1420, respectively, of the Safe Drinking Water Act. The information collection for the Tribal Operator Certification Program is driven by grant eligibility requirements outlined in the Drinking Water Infrastructure Grant Tribal Set-Aside Program Final Guidelines and the Tribal Drinking Water Operator Certification Program Guidelines.

Form numbers: None.

Respondents/affected entities: New and existing public water systems and primacy agencies.

Respondent's obligation to respond: Mandatory for compliance with 40 CFR parts 141 and 142.

Estimated number of respondents: 146,099 (total).

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually and annually).

Total estimated burden: 3,421,278 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $208,214,000 (per year), includes $37,756,000 in operation and maintenance costs.

Changes in the estimates: There is a decrease of 222,093 hours in the total estimated annual respondent burden compared with the ICR currently approved by OMB. This decrease is a result of updating relevant baseline information for each rule with the most current and accurate information available (*e.g.,* public water system inventory); and updating burden to incorporate the results of consultation with stakeholders. Where appropriate and available, estimated violation and other associated rates have also been updated to reflect current information on rule compliance.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06036 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0043; FRL–10835–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NESHAP for Prepared Feeds Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Prepared Feeds Manufacturing (EPA ICR Number 2354.06, OMB Control Number 2060–0635) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on July 22, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 24, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0043, to EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved March 31, 2023. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

Public comments were previously requested via the **Federal Register** on July 22, 2022 during a 60-day comment period (87 FR 443843). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Prepared Feeds Manufacturing were promulgated on January 5, 2010; and amended on both July 20, 2010, and December 23, 2011. These regulations apply to existing facilities and new facilities where animal feed (other than feed products for dogs and cats) makes up at least half (by mass) of the facility's annual production of all products. These regulations apply to new and existing area source prepared feeds manufacturing facilities that use one or more materials (additives/premixes) that contain 0.1 percent or greater by weight of chromium (Cr) or 1.0 percent or greater by weight of manganese (Mn). New facilities include those that commenced construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart DDDDDDD.

Form numbers: None.

Respondents/affected entities: Prepared feeds manufacturing facilities

that are an area source of hazardous air pollutants (HAPs).

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart DDDDDDD).

Estimated number of respondents: 1,800 (total).

Frequency of response: Quarterly, annually.

Total estimated burden: 64,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $7,700,000 (per year), which includes $41,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. There is an increase in the O&M costs from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. The capital costs were adjusted from 2010 to 2020 $ using the CEPCI Equipment Cost Index, and the O&M costs are assumed to be 10 percent of the capital costs; therefore, there is a corresponding increase in the O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06116 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–062]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly Receipt of Environmental Impact Statements (EIS)

Filed March 13, 2023 10 a.m. EST Through March 20, 2023 10 a.m. EST Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20230041, Draft Supplement, USFS, AK, Greens Creek Mine North Extension Project, Comment Period Ends: 05/08/2023, Contact: Matthew Reece 907–789–6274.

Amended Notice: EIS No. 20230007, Draft, TxDOT, TX, US 380 McKinney, Comment Period Ends: 04/05/2023, Contact: Doug Booher 512–416–2663. Revision to FR Notice Published 01/20/2023; Extending the Comment Period from 03/21/2023 to 04/05/2023.

EIS No. 20230028, Draft, USFWS, CO, Colorado Gray Wolf 10(j) Rulemaking, Comment Period Ends: 04/18/2023, Contact: Nicole Alt 303–236–4213. Revision to FR Notice Published 02/17/2023; Extending the Comment Period from 04/03/2023 to 04/18/2023.

Dated: March 20, 2023.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–06098 Filed 3–23–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 24, 2023.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *United Community Banks, Inc., Greenville, South Carolina;* to acquire First Miami Bancorp, Inc., and thereby indirectly acquire First National Bank of South Miami, both of South Miami, Florida.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–06024 Filed 3–23–23; 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 April 10, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *James Edwin Larkin, Lawrence, Kansas;* to acquire voting shares of Bedford Bancorp, Inc., Bedford, Iowa, and thereby indirectly acquire voting

shares of State Savings Bank, Creston, Iowa.

2. *Dierk Halverson, Coon Rapids, Iowa, John Chrystal, Aspen, Colorado, and Steven Spotts, Sac City, Iowa;* to acquire additional voting shares of, and together with Timothy O. Lee, Coon Rapids, Iowa, who was previously approved, to form a group acting in concert to control voting shares of, Sac City Limited, and thereby indirectly control voting shares of Iowa State Bank, both of Sac City, Iowa.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–06122 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–23DP; Docket No. CDC–2023–0018]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Public Health Law Fellowship Program Information Collection. The goal of this information collection request (ICR) is to obtain a new ICR using nine data collection instruments including two applications, five surveys, one interview guide, and one focus group guide assessing the quality and value of the Public Health Law Program Fellowship (PHL Fellowship).

DATES: CDC must receive written comments on or before May 23, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0018 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Public Health Law Fellowship Program Information Collection—New—National Center for STLT Public Health Infrastructure and Workforce (NCSPHIW), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the Department of Health and Human Services (HHS) is to enhance the health and well-being of all Americans. As part of HHS, the Centers for Disease Control and Prevention (CDC) works to protect America from health, safety, and security threats, both foreign and in the U.S. CDC strives to fulfill this mission, in part, through a competent and capable public health workforce. One mechanism to developing the public health workforce is through training programs like the Public Health Law Fellowship Program (PHL Fellowship).

The mission of the PHL Fellowship is to train and provide experiential learning to current students and early career professionals in public health law and policy. The PHL Fellowship targets current graduate students and law students, as well as recent graduates of graduate and law programs with a demonstrated interest in public health law. It is the goal of this fellowship that following participation in the program, alumni will seek employment within the public health law system (*i.e.,* federal, state, tribal, local, or territorial health agencies, or non-governmental organizations), focusing on health equity and/or emergency response.

This fellowship was created pursuant to American Rescue Plan funding to expand on the Public Health Law Program's intern/extern program. There were no prior efforts to systematically evaluate the intern/extern program necessitating the creation of an evaluation plan for the PHL Fellowship. Evaluation priorities focus on continuously learning about program processes and activities to improve the program's quality and documenting program outcomes to demonstrate impact and inform decision-making about future program direction.

The purpose of this data collection is to inform these evaluation priorities through the collection of information from two key stakeholder groups: (1) 40 host site supervisors; and (2) 70 fellows (n = 110). These data collections will be instrumental in helping CDC staff learn about these important stakeholder perspectives and will yield results that

describe quality, impact, and value. Data will also inform program improvements such as refining the host site selection and matching process. Collection of this information moving forward will continue to meet these purposes and allow for longitudinal evaluation of the PHL Fellowship, giving program leaders opportunities to see how this fellowship influences alumni career progression and contributions to public health over time.

CDC requests OMB approval for an estimated 151 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Prospective Fellows	PHL Fellow Application	200	1	7/60	24
Current Fellows	PHL Fellow Welcome Survey	70	1	6/60	7
Current Fellows	PHL Fellow End-of-Program Survey	70	1	7/60	8
Fellowship Alumni	PHL Fellowship Alumni Survey	70	1	10/60	12
Current Fellows	PHL Fellow Focus Group	30	1	60/60	30
Prospective Host Sites	PHL Fellowship Host Site Application.	50	1	21/60	18
Fellowship Host Site Supervisors	PHL Fellowship Host Site Welcome Survey.	40	1	5/60	4
Fellowship Host Site Supervisors	PHL Fellowship Host Site End-of-Program Survey.	40	1	12/60	8
Fellowship Host Site Supervisors	PHL Fellowship Host Site Supervisor Interview.	40	1	60/60	40
Total					151

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–06162 Filed 3–23–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–23CU; Docket No. CDC–2023–0012]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled, Advancing Violence Epidemiology in Real-Time (AVERT). This data collection will help improve state and local jurisdictions' ability to identify, respond to, and prevent violence.

DATES: CDC must receive written comments on or before May 23, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0012 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Advancing Violence Epidemiology in Real-Time (AVERT)—NEW—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Firearm deaths and injuries are a serious public health problem in the United States. In 2021, more than 47,000 people died because of a firearm-related injury, according to provisional mortality data from the CDC's National Vital Statistics System. Many more people suffer nonfatal firearm-related injuries, and some areas and populations are disproportionately affected by firearm injuries. In an analysis of Emergency Department (ED) visits from 10 U.S. jurisdictions, the proportion of ED visits for firearm injuries were higher in communities that experienced more poverty, unemployment, lower incomes, and lower educational attainment. People hospitalized with nonfatal gunshot wounds often experience long-term consequences, including physical disabilities and chronic mental health problems from conditions such as post-traumatic-stress disorder. The economic impact of firearm injury and mortality is also substantial, costing the U.S. billions of dollars each year in medical and lost productivity costs alone, according to CDC's Web-based Injury Statistics Query and Reporting System (WISQARS) Cost of Injury module. An understanding of the full extent of the problem is crucial to informing prevention and response strategies and reducing future incidents.

Timely state- and local-level data on ED visits for firearm injuries are currently limited. More context on ED visits for firearm injuries (regardless of intent), other violence-related injuries, and mental health conditions (which may increase risk for, or be a negative outcome associated with firearm injuries and other violence-related injuries) is also needed. The collection of near real-time data on ED visits for these outcomes of interest at the state- and local-level could improve state and local jurisdictions' ability to identify, respond to, and prevent violence. These data can also be used to identify, track, and address disparities in ED visits for firearm injuries, violence-related injuries, and mental health conditions.

The AVERT data collection integrates, expands, and enhances previous data sharing efforts with public health departments initiated under the Firearm Injury Surveillance Through Emergency Rooms (FASTER) program, which provided funding for 10 jurisdictions to share firearm injury-related ED visit data with CDC. The goal of AVERT is to build on the FASTER program and provide funding to a minimum of 10 jurisdictions to share timely ED data for all firearm injuries (regardless of intent), other violence-related injuries, and mental health conditions. AVERT is made possible because the vast majority of the participating health departments are already rapidly collecting extensive data on ED visits in their jurisdiction and using these data for the identification of public health concerns, including flu, heat-related illness, and disaster-related health issues. AVERT will support states to conduct routine monitoring of these data to identify ED visits related to firearm injuries (regardless of intent), other violence-related injuries, and mental health conditions, in addition to analyze these data in a timely manner and share these data with CDC. The AVERT program will ensure participating jurisdictions use their data to track all firearm injuries, other violence-related injuries, and mental health conditions by providing participating jurisdictions standardized definitions, which can facilitate rapid identification and tracking of ED data on violence.

AVERT leverages existing ED data collection efforts deployed across state health departments through CDC's National ED Syndromic Surveillance program. The Division of Health Informatics and Surveillance (DHIS) in the Center for Surveillance, Epidemiology, and Laboratory Services (CSELS) in CDC operates the National Syndromic Surveillance Program (NSSP) BioSense Platform (OMB Control No. 0920–0824) through which state and local health departments share preliminary data such as the chief complaint of the patient seeking care at the ED.

CDC requests OMB approval for an estimated 30 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (hours)	Total annual burden (hours)
Participating health departments sharing case-level ED data with CDC through the NSSP BioSense (OMB Control No. 0920–0824).	ED form (*ED violence data form*)	10	6	30/60	30
Total	.....	.....	.....	.....	30

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–06165 Filed 3–23–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; National Human Trafficking Training and Technical Assistance Center (NHTTAC) Evaluation Package (OMB #0970–0519)

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office on Trafficking of Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting renewal with revisions to the instruments previously approved for the National Human Trafficking Training and

Technical Assistance Center (NHTTAC) Evaluation Package (Office of Management and Budget (OMB) #0970–0519, expiration 03/31/2023). Items were expanded to include measures related to specific skills, competencies, and knowledge and outcomes at the organizational and community levels, and the annual burden has increased for several forms.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The NHTTAC delivers training and technical assistance (T/TA) to inform and deliver a public health response to trafficking. In applying a public health approach, NHTTAC holistically builds the capacity of professionals, organizations, and communities to identify and respond to the complex needs of all individuals who have experienced trafficking or who have increased risk factors for trafficking and address the root causes that put individuals, families, and communities at risk of trafficking. These efforts ultimately help improve the availability and delivery of coordinated and trauma-informed services before, during, and after an individual's trafficking exploitation, regardless of their age, gender identity, sexual orientation, race/ethnicity, nationality, or type of exploitation experienced.

NHTTAC hosts a variety of services, programs, and facilitated sessions to improve service provision to people who have experienced trafficking or who have increased risk factors for trafficking, including The Human Trafficking Leadership Academy; SOAR (Stop, Observe, Ask, and Respond) to Health and Wellness; OTIP-funded recipients; both short-term and specialized T/TA requests; the NHTTAC Customer Support; and information through NHTTAC's website, resources, and materials about trafficking. This information collection is intended to collect feedback from participants to assess a diverse range of T/TA provided by NHTTAC.

Revisions have been made in order to:

- Respond to Postgraduate Institute for Medicine accreditation requirements through SOAR T/TA
- Reduce burden where applicable
- Provide flexibility for NHTTAC to assess new knowledge gains, application of skills/competencies, and outcomes of participants who received NHTTAC T/TA
- Understand NHTTAC's progress on improving diversity, equity, and inclusion

Respondents: NHTTAC T/TA participants include OTIP grant recipients, individuals with lived experience, professionals who interact with and provide services to individuals who have experienced trafficking, including healthcare, behavioral health, public health, and human service practitioners, organizations, and communities.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Total number of responses per respondent	Average burden hours per response	Annual burden hours
Universal T/TA Participant Feedback—Long Version	2,100	1	0.43	903
Universal T/TA Participant Feedback—Short Version	50,000	1	0.10	5,000
Intensive T/TA Participant Feedback	650	1	1.17	761
Follow Up Feedback	10,000	1	0.50	5,000
Qualitative Guide	2,200	1	1.50	3,300
Network Survey	600	1	1.00	600
Client Satisfaction Survey	1,000	1	0.08	80
Resources Feedback	500	1	0.08	40
Requester Feedback	250	1	0.12	30

Estimated Total Annual Burden Hours: 15,714.

Authority: 22 U.S.C. 7104 and 22 U.S.C. 7105(c)(4).

John M. Sweet Jr,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–06097 Filed 3–23–23; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–3319]

Framework for the Use of Digital Health Technologies in Drug and Biological Product Development; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the publication of a digital health technology (DHT) framework by the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research. This framework is entitled ''Framework for the Use of Digital Health Technologies in Drug and Biological Product Development.'' This fulfills an FDA commitment under the seventh iteration of the Prescription Drug User Fee Act (PDUFA VII) reauthorization, incorporated as part of the FDA User Fee Reauthorization Act of 2022.

DATES: Either electronic or written comments on the framework must be submitted by May 23, 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 23, 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–2022–N–3319 for ''Framework for the Use of Digital Health Technologies in Drug and Biological Product Development.'' 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: Ryan Robinson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3342, Silver Spring, MD 20993–0002, 240–402–9756, *Ryan.Robinson1@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

In connection with PDUFA VII, incorporated as part of the FDA User Fee Reauthorization Act of 2022, FDA committed to establish a framework that will guide the use of DHT-derived data in regulatory decision-making for drug and biological products. FDA is publishing the ''Framework for the Use of Digital Health Technologies in Drug and Biological Product Development'' to satisfy the PDUFA VII commitment.

DHTs may provide opportunities for more efficient drug development. DHTs and DHT-derived data can be important tools in supporting timely access to safe, effective, and innovative new medicines for patients. Despite the potential advantages of DHTs, many challenges arise when incorporating DHTs and DHT-derived data into regulatory decision-making. This framework outlines a multifaceted approach to collaboratively address these challenges with stakeholders. Through these joint efforts, FDA intends to advance the development of drugs and promote the public health.

The framework will guide activities such as (1) defining objectives for workshops and demonstration projects, (2) developing methodologies for evaluating DHTs proposed as measuring key (primary or important secondary) endpoints or other important measures (*e.g.,* for safety monitoring or baseline characterization) in clinical trials, (3) managing submissions with extensive and continuous data (*e.g.,* in order to develop acceptable approaches to capture adverse events), and (4) developing a standardized process for data management and analysis of large datasets from DHTs.

II. Electronic Access

Persons with access to the internet may obtain the ''Framework for the Use of Digital Health Technologies in Drug and Biological Product Development'' at *https://www.fda.gov/science-research/science-and-research-special-topics/digital-health-technologies-dhts-drug-development.*

Dated: March 20, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–06066 Filed 3–23–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; System of Records

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, HHS is modifying a system of records maintained by HRSA's Bureau of Health Workforce, System Number 09–15–0054, National Practitioner Data Bank (NPDB).

DATES: This notice is effective upon publication, subject to a 30-day period in which HRSA will accept comments on the new and revised routine uses, described below. Please submit any comments by April 24, 2023.

ADDRESSES: The public should address written comments on the system of records to *npdbpolicy@hrsa.gov* or by mail, addressed to: Director, Division of Practitioner Data Bank, Bureau of Health Workforce, HRSA, HHS, 5600 Fishers Lane, Mailstop 11SWH03, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: General questions about the revised system of records may be submitted by telephone to 301–443–2300 or by email or mail to David Loewenstein, Director, Division of Practitioner Data Bank, at the addresses listed above.

SUPPLEMENTARY INFORMATION:

I. Background on the National Practitioner Data Bank Information Technology System (NPDB IT System)

The NPDB IT system is a web-based repository of reports containing information on practitioner medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers. Established in 1986, this is a workforce tool that prevents record subjects from moving state to state without disclosure or discovery of previous damaging performance. Federal regulations at 45 CFR part 60 authorize eligible entities to report to and/or query the NPDB. Individuals and organizations who are subjects of these reports have access to information about them and, unless excepted, information about who accessed reports about them. The reports are confidential and not available to the public. (Information that would reveal whether the NPDB contains a report about a particular individual is generally exempt from disclosure to third parties based on Freedom of Information Act exemptions at 5 U.S.C. 552(b)(3), (6) and/or (7)(C).) The NPDB assists in promoting quality health care and deterring fraud and abuse within health care delivery systems.

The records in the NPDB repository that are about individuals and are retrieved by personal identifier constitute a Privacy Act system of records. Records that are about health practitioners, providers, and suppliers that are entities, not individuals, are outside the scope of the system of records.

II. Modifications to the NPDB System of Records Notice (SORN)

The NPDB SORN has been modified to reflect a major change in equipment configuration and hosting (*i.e.,* from using a data center to using a cloud environment to improve the availability of the information in the system) and to limit the SORN descriptions more clearly to records about individuals. Formatting changes have also been made to conform to the template prescribed in the current Office of Management and Budget (OMB) Circular A–108. The modifications include:

- Updating the System Location section to reflect that the agency component responsible for the system of records is now the Bureau of Health Workforce instead of the Division of Practitioner Data Banks, as previously indicated, and that the Bureau's name has changed from ''Bureau of Health Professions'' to ''Bureau of Health Workforce;'' to omit the Division's address (because records are not located there); and to describe the current system hosting location as being within a secure cloud service environment (it was previously described as a secure contractor run data center at an undisclosed location).
- Updating the System Manager(s) section to change the official serving as System Manager from the ''Director'' to the ''Deputy Director'' of the Division of Business Operations.
- Revising the Authority section to include U.S. Code citations after the name of each Act cited (*i.e.,* 42 U.S.C. 11101–11152, 1320a–7e, and 1396r–2) and to cite to an additional Act's name and the relevant section, namely Section 6403 of the Patient Protection and Affordable Care Act, which amended 42 U.S.C. 1320a–7e and 1396r–2.
- Adding a new paragraph at the start of the Categories of Individuals section stating that the records are about individual health care practitioners, providers, suppliers, and certifying officials and administrators of eligible entities about whom information is maintained in the NPDB IT system; and clarifying that the existing paragraph is describing the ''NPDB IT system,'' (which includes records about both individuals and entities, broader than the system of records).
- Expanding and updating the Categories of Records section to add three record categories (subject profile records, dispute resolution case files, and entity registration records) to the existing two categories (reports, and query histories, now referred to as ''query data''); to add one category of information to the description of reports (*i.e.,* ''(1) identifying information, such as name, work address, etc.''); to omit a list of data elements from the description of reports; and to revise the description of query data to state that it meets Privacy Act accounting of disclosures requirements and to explain why the data available for self-query does not include query activity initiated by law enforcement agencies.
- Updating Record Source Categories by adding a new item (10), individual practitioners, providers, and suppliers when providing data as part of the NPDB Self-Query process.
- In the Routine Uses section, revising six routine uses and removing one unnecessary routine use, as described below:
  - Routine use 1, which authorizes disclosures to hospitals requesting information, has been revised to add ''but not limited to'' after ''such as,'' and to add ''providers and suppliers'' to the description of subject individuals who the disclosed information could be about.
  - Routine use 3, which authorizes disclosures to a health care entity with respect to a professional review activity, has been revised to cite 45 CFR 60.3 as the source of the term ''professional review activity.''
  - Routine use 4, which authorizes certain disclosures to a state licensing or certification authority that requests information in two described situations, has been revised to add the word ''all'' to limit one of the situations to when the authority requests information in the course of conducting a review of ''all'' health care practitioners or health care entities.
  - Routine use 8, which authorized disclosures to a health care provider, supplier, or practitioner who requests information about themself, or itself, has been removed as unnecessary, because disclosures to the subject individual do

not need to be authorized by publication of a routine use.

○ Routine use 8 (formerly numbered as routine use 9), which authorizes disclosures to a health care entity that queries the system for information itself, has been revised to limit the disclosed information to that which is ''otherwise releasable to the entity (*e.g.,* would not reveal a law enforcement investigation).''

○ Routine use 11 (formerly numbered as routine use 12), which authorizes disclosures to the Department of Justice in the event of litigation, has been revised to include ''a court or other tribunal'' as an additional disclosure recipient, to change ''litigation'' to ''pending or potential litigation,'' and to remove redundant wording about compatibility with the original collection purpose, which repeated part of the definition of a routine use.

○ In routine use 12 (formerly numbered as routine use 13), which authorizes disclosures to the contractor engaged to operate and maintain the NPDB, two examples of operation and maintenance functions have been revised, changing ''upgrading hardware and software'' to ''upgrading infrastructure and software'' and changing ''performing system backups'' to ''ensuring that timely system backups are completed.''

• Updating the Storage section, which previously stated that records are maintained ''on database servers with disk storage, optical jukebox storage, backup tapes, and printed reports,'' to now state that records are maintained ''in electronic form, using cloud storage.''

• Updating the Retrieval section as follows:

○ To avoid implying that date of birth, educational information, and ''other identifying information'' are themselves ''personal identifiers'' (because they do not fit the description in 5 U.S.C. 552a(a)(5)), and instead explain that ''date of birth, educational information, work address, etc.'' may be used for retrieval ''in combination with'' any of the personal identifiers listed;

○ To add Taxpayer Identification Number, Federal Employer Identification Number, Drug Enforcement Agency Number, Unique Physician Identification Number, and National Provider Identifier to the list of personal identifiers; and

○ To revise a note at the end of the section to state that a matching algorithm uses the ''personal identifiers'' to ''match queries to the subjects of NPDB reports'' (instead of stating that the algorithm uses the ''data elements'' to ''match reports to the subject'').

• Revising the Retention section, which previously stated that the records are unscheduled and require long term retention, to now identify the applicable National Archives and Records Administration-approved disposition schedule and disposition periods.

• Revising the Safeguards section to add an introductory paragraph and to change the safeguards descriptions as follows:

○ The administrative safeguards description now refers to ''organizational'' and ''non-organizational'' users instead of ''internal'' and ''external'' users; no longer includes signed disclosure agreements (but continues to include signed Rules of Behavior); refers to ''system authorization'' instead of ''certification and accreditation;'' and now includes continuous monitoring and risk assessments.

○ The technical safeguards description states that encryption uses ''256-bit SSL'' instead of ''128-bit SSL'' and ''meets FIPS 140.2 validation requirements'' and adds this statement: ''All NIST 800–53 rev 4 control families and Plastic Card Industry Data Security Standard control families selected and implemented are verified by third party auditors.''

○ The physical safeguards description now excludes cipher locks, locked hardware cages, and man trap with biometric hand scanner; includes badge reader-controlled access, logging and monitoring of access, and multi-factor authentication mechanisms with door alarming devices that detect if the mechanisms were bypassed upon entering or exiting; and replaces ''closed circuit TV'' with ''professional security staff using surveillance, detection systems, and other electronic means.''

• Revising the Record Access Procedures section as follows:

○ Updating the opening paragraphs and reorganizing them under the subheadings ''Information Available by Self-Query'' and ''Requests by Electronic Transmission.''

○ Providing alternative identity verification methods for ''Requests by Electronic Transmission'' (*i.e.,* online identity proofing, mailing a notarized form, or uploading a notarized form) and mentioning that a fee is charged.

○ Revising the ''Requests by Mail'' instructions to require mailing address to be included, to require the individual's notarized signature for identity verification purposes, and to mention that a fee is charged.

○ Revising the ''Requests by Telephone'' instructions to include steps for obtaining the individual's notarized signature for identity verification purposes.

○ Updating the description of the penalty for submitting a request under false pretenses, which previously was up to $11,000 for each violation and is now up to $25,076 per violation as of 2022 and is subject to increase each year based on inflation; and updating the citation to the applicable regulation, which was formerly 42 CFR 1003.103(c) and is now 42 CFR 1003.810.

Because some of these changes are significant, a report on the modified system of records was sent to OMB and Congress in accordance with 5 U.S.C. 552a(r), by the HHS Senior Agency Official for Privacy, or the designee, in accordance with OMB Circular A–108, section 7.e.

Diana Espinosa,

Principal Deputy Administrator.

SYSTEM NAME AND NUMBER:

National Practitioner Data Bank, 09–15–0054.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

A contractor operates and maintains the system through a technical service contract managed by the Bureau of Health Workforce, Health Resources and Services Administration. The technical infrastructure of the system resides in a secure cloud service provider environment. Mail processing and customer service functions associated with the system are conducted at the contractor's secure facility.

SYSTEM MANAGER(S):

Deputy Director, Division of Business Operations, Bureau of Health Workforce, Health Resources and Services Administration, U.S. Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, *npdbpolicy@hrsa.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Health Care Quality Improvement Act of 1986, as amended (42 U.S.C. 11101–11152); Section 1128E of the Social Security Act, as amended (42 U.S.C. 1320a–7e); Section 1921 of the Social Security Act, as amended (42 U.S.C. 1396r–2); and Section 6403 of the Patient Protection and Affordable Care Act (amending 42 U.S.C. 1320a–7e and 1396r–2).

PURPOSES(S) OF THE SYSTEM:

The purposes for which records about individuals in the National Practitioner Data Bank information technology

system (NPDB IT system) are used are to: (1) receive reports containing information on medical malpractice payments and certain adverse actions, as enumerated in the Categories of Records section below, related to individual health care practitioners, suppliers, and providers; (2) store such reports so that future queriers may have access to pertinent information in the course of making important decisions related to the delivery of health care services; and (3) disseminate such data to individuals and entities that qualify to receive the reports under the governing statutes as authorized by the Health Care Quality Improvement Act of 1986, Section 1921 of the Social Security Act, and Section 1128E of the Social Security Act to protect the public from unfit practitioners and to prevent fraud and abuse. The NPDB IT system also allows individual practitioners, providers, and suppliers to self-query to access reports about them.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records in this system of records are about individual health care practitioners, providers, and suppliers, and certifying officials and administrators of eligible entities about whom information is maintained in the NPDB IT system.

Health care practitioners are defined by 45 CFR 60.3 and include, for example, physicians, dentists, nurses, allied health care professionals, and social workers. Health care suppliers are defined by 45 CFR 60.3, and health care providers are defined by 45 CFR 60.3.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the NPDB IT system that are about individuals and retrieved by personal identifier are reports, subject profile records, dispute resolution case files, entity registration records, and query data.

Reports include, but are not limited to:

(1) identifying information, such as name, work address, etc.;

(2) medical malpractice payment reports for all health care practitioners (*e.g.,* physicians, dentists, nurses, optometrists, pharmacists, podiatrists, etc.);

(3) adverse licensure and certification action reports taken by states against health care practitioners, health care entities, providers or suppliers;

(4) adverse licensure and certification action reports taken by federal agencies against health care practitioners, providers, or suppliers;

(5) adverse clinical privileging actions reports for physicians, dentists, or other health care practitioners who may have medical staff privileges;

(6) adverse professional society membership action reports for physicians, dentists, or other health care practitioners;

(7) negative actions or findings taken against health care practitioners, health care entities, providers, or suppliers by peer review organizations and private accreditation entities;

(8) federal or state criminal convictions related to the delivery of a health care item or service reports for health care practitioners, providers, or suppliers;

(9) civil judgments related to the delivery of a health care item or service for health care practitioners, providers, or suppliers;

(10) reports of exclusions of health care practitioners, providers, or suppliers from participation in state or federal health care programs; and

(11) other adjudicated actions taken against health care practitioners, providers, or suppliers by federal agencies, state agencies, or health plans.

Query histories (also called disclosure histories) indicate the dates that a health care practitioner's, provider's, supplier's, or entity's report(s) were accessed/queried in the system; by whom; and meet accounting of disclosures requirements in the Privacy Act at 5 U.S.C. 552a(c). An individual practitioner's, provider's, or supplier's report(s) and disclosure history are available to them, if they elect to submit a self-query. However, consistent with the exemptions established for this system of records pursuant to 5 U.S.C. 552a (k)(2), which exempts all investigative materials (*i.e.,* all law enforcement queries) from certain Privacy Act requirements, including the accounting of disclosures and access requirements at 5 U.S.C. 552a(c) and (d)(1)–(4), the disclosure history will not include disclosures from query activity initiated by law enforcement agencies.

Subject Profile records contain data on subjects of reports, such as address, date of birth, and licensure data extracted from one or more NPDB reports. Subject profiles are used as part of the NPDB matching process to compare and score data on NPDB queries to the data on NPDB subject profile records.

Subjects of NPDB reports may initiate a dispute if they feel the NPDB report is inaccurate or not reportable. NPDB staff adjudicate each dispute based on information collected by the reporter and subject of each report according to the law and regulations. For each dispute that gets elevated to the Health Resources and Services Administration (HRSA), a case file is created containing all the documentation, correspondence, analysis, and a letter that renders a decision to keep the disputed report as-is, to send the disputed report to the reporter for correction, or to void the report altogether so it is not disclosable in response to any query. Dispute cases are occasionally needed for evidence in civil trials. Additionally, content in past cases can be used by NPDB staff as a benchmark or template to help expedite adjudication of future cases.

The NPDB maintains information about individuals in entity registration records to serve two purposes: (1) to ensure that each organization identifies a representative to serve as its certifying official, the individual selected and empowered by an entity to certify the legitimacy of registration for participation in the NPDB; and (2) to establish an entity administrator at each organization who will be in charge of user management and organizational administration for NPDB matters at the organization. For both the certifying official and entity administrator, entity registration documents are required to verify each representative's identity, prove the entity exists, and verify each representative's affiliation with that entity.

Query data is stored to support the NPDB system, support and track user base activities, and ensure accurate matching processes. All querying activities are tracked, monitored, and stored within the NPDB system in accordance with all federal requirements. Query data includes both data submitted by registered NPDB organizations when trying to retrieve matched NPDB report records and by individual practitioners, providers, and suppliers when using the NPDB Self-Query service that provides individual practitioners, providers, and suppliers with any matched NPDB reports on themselves. Query data includes the same identifying information found in the NPDB report record and subject profile records which supports the NPDB matching and report retrieval processes.

RECORD SOURCE CATEGORIES:

The records contained in the system are submitted by the following entities: (1) insurance companies and others who have made payment as a result of a malpractice action or claim; (2) state health care licensing and certification authorities; (3) federal licensing and certification agencies (*e.g.,* the Drug Enforcement Administration); (4) peer review organizations and private accreditation entities; (5) hospitals and other health care entities (includes

professional societies); (6) federal and state prosecutors and attorneys; (7) health plans; (8) federal government agencies; (9) state law and fraud enforcement agencies; and (10) individual practitioners, providers, and suppliers when providing data as part of the NPDB Self-Query process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about a subject individual is or may be disclosed from this system of records to parties outside the agency, without the individual's consent, for the following routine uses:

(1) To hospitals requesting information such as, but not limited to, adverse licensure actions, medical malpractice payments or exclusions from Medicare and Medicaid programs taken against all licensed health care practitioners such as physicians, dentists, nurses, podiatrists, chiropractors, psychologists, and providers and suppliers. The information is accessible to both public and private sector hospitals that can request information concerning a physician, dentist, or other health care practitioner who is on its medical staff (courtesy or otherwise) or who has clinical privileges at the hospital, for the purpose of: (a) screening the professional qualifications of individuals who apply for staff positions or clinical privileges at the hospital; and (b) meeting the requirements of the Health Care Quality Improvement Act of 1986, which prescribes that a hospital must query the NPDB once every 2 years regarding all individuals on its medical staff or who hold clinical privileges.

(2) To other health care entities, as defined in 45 CFR 60.3, to which a physician, dentist, or other health care practitioner has applied for clinical privileges or appointment to the medical staff or who has entered or may be entering an employment or affiliation relationship. The purpose of these disclosures is to assess the individual practitioner's qualifications for staff appointment or clinical privileges.

(3) To a health care entity with respect to ''professional review activity'' (45 CFR 60.3). The purpose of these disclosures is to aid health care entities in the conduct of professional review activities, such as those involving determinations of whether a physician, dentist, or other health care practitioner may be granted membership in a professional society, the conditions of such membership, or changes to such membership; and ongoing professional review activities of the professional performance or conduct of a physician, dentist, or other health care practitioner.

(4) To a state health care practitioner and/or entity licensing or certification authority that requests information in the course of conducting a review of all health care practitioners or health care entities or when making licensure determinations about health care practitioners and entities. The purpose of these disclosures is to aid the board or certification authority in meeting its responsibility to protect the health of the population in its jurisdiction, and to assess the qualifications of individuals seeking licenses or certifications.

(5) To federal and state health care programs (and their contractors) that request information to aid them in ensuring the integrity of their programs and the professional competence of affiliated health care practitioners and uncovering information needed to make appropriate decisions in the delivery of health care.

(6) To state Medicaid Fraud Control Units that request information to assist with investigating fraud, waste, and abuse and in the prosecution of health care practitioners and providers relating to Medicaid programs.

(7) To utilization and quality control Peer Review Organizations and those entities which are under contract with the Centers for Medicare & Medicaid Services, when they request information to protect and improve the quality of care for Medicare beneficiaries in the course of performing quality of care reviews and other related activities.

(8) To a health care entity that has been reported on, when the entity queries the system to receive information concerning itself and the information is otherwise releasable to the entity (*e.g.,* would not reveal a law enforcement investigation).

(9) To an attorney, or an individual representing themselves, who has filed a medical malpractice action or claim in a state or federal court or other adjudicative body against a hospital, and who requests information regarding a specific physician, dentist, or other health care practitioner who is also named in the action or claim, provided that: (a) this information will be disclosed only upon the submission of evidence that the hospital failed to request information from the NPDB as required by law and (b) the information will be used solely with respect to litigation resulting from the action or claim against the hospital. The purpose of these disclosures is to permit an attorney (or a person representing themselves in a medical malpractice action) to have information from the NPDB on a health care practitioner, under the conditions set out in this routine use.

(10) To any federal entity, employing or otherwise engaging under arrangement (*e.g.,* such as a contract) the services of a physician, dentist, or other health care practitioner, or having the authority to sanction such individuals covered by a federal program, which: (a) enters into a memorandum of understanding with the U.S. Department of Health and Human Services (HHS) regarding its participation in the NPDB; (b) engages in a professional review activity in determining an adverse action against a practitioner; and (c) maintains a Privacy Act system of records regarding the health care practitioners it employs, or whose services it engages under arrangement. The purpose of such disclosures is to enable hospitals and other facilities and health care providers under the jurisdiction of federal agencies such as the Public Health Service, HHS; the Department of Defense; the Department of Veterans Affairs; the U.S. Coast Guard; and the Bureau of Prisons, Department of Justice, to participate in the NPDB. The Health Care Quality Improvement Act of 1986 includes provisions regarding the participation of such agencies and of the Drug Enforcement Agency.

(11) To the Department of Justice or to a court or other tribunal in the event of pending or potential litigation, for the purpose of enabling HHS to present an effective defense, where the defendant is: (a) HHS, any component of HHS, or any HHS employee in their official capacity; (b) the United States where HHS determines that the claim, if successful, is likely to affect directly the operation of HHS or any of its components; or (c) any HHS employee in their individual capacity where the Department of Justice has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition alleged to have arisen because of activities of the Public Health Service in connection with such individual.

(12) To the contractor engaged by the agency to operate and maintain the system. Operation and maintenance functions include, but are not limited to, providing continuous user availability, developing system enhancements, upgrading infrastructure and software, providing information security assurance, and ensuring that timely system backups are completed.

(13) To a health plan requesting data concerning a health care provider, supplier, or practitioner for the purposes of preventing fraud and abuse

activities and/or improving the quality of patient care, and in the context of hiring or retaining providers, suppliers and practitioners that are the subjects of reports.

(14) To federal agencies requesting data concerning a health care provider, supplier, or physician, dentist, or other practitioner for the purposes of anti-fraud and abuse activities and investigations, audits, evaluations, inspections, and prosecutions relating to the delivery of and payment for health care in the United States and/or improving the quality of patient care, and in the context of hiring or retaining the providers, suppliers, and individuals that are the subject of reports to the system. This would include law enforcement investigations and other law enforcement activities.

(15) To appropriate agencies, entities, and persons when (a) HHS suspects or has confirmed that there has been a breach of the system of records; (b) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(16) To another federal agency or federal entity, when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic form, using cloud storage.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by any of the following personal identifiers, singly or in combination, and/or in combination with other identifying information, such as date of birth, educational information, work address, etc.:

- Name
- Social Security Number
- Taxpayer Identification Number
- Federal Employer Identification Number
- Drug Enforcement Agency Number
- License Number
- Unique Physician Identification Number
- National Provider Identifier

A matching algorithm uses these identifiers to match queries to the subjects of NPDB reports.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records are maintained and disposed of in accordance with National Archives and Records Administration-approved disposition schedule DAA–0512–2017–0002, available at: *https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-health-and-human-services/rg-0512/daa-0512-2017-0002_sf115.pdf,* which provides the following disposition periods:

- *Item 1.1 NPDB reports; item 2.1 query transactions; and item 1.3 NPDB subject profile records:* Cutoff at the end of each calendar year and destroy 75 years after cutoff (unless needed longer for legal or business purposes).
- *Item 4.1 NPDB dispute resolution case files:* Cutoff at the close of the case and destroy 50 years after cutoff.
- *Item 5.1 Entity registration records:* Cutoff 50 years after the last (most recent) registration renewal and destroy 50 years after cutoff (unless longer retention is authorized).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Safeguards conform to the HHS and HRSA Information Security and Privacy Program, *https://www.hhs.gov/ocio/securityprivacy/index.html.* Information is safeguarded in accordance with applicable laws, rules, and policies, including the HHS Information Security and Privacy documents, all pertinent National Institutes of Standards and Technology (NIST) publications, and OMB Circular A–130, Managing Information as a Strategic Resource.

Administrative Safeguards. Authorized users include organizational users, such as government and contractor personnel, who support the NPDB. Organizational users (HRSA users and their contractors) are required to obtain favorable adjudication to hold a public trust position. Government and contractor personnel who support the NPDB must attend annual security training and sign the Rules of Behavior annually. Authorized users are given role-based access to the system on a limited need-to-know basis. All physical and logical access to the system is removed upon termination of employment. Non-organizational users, who are responsible for meeting NPDB reporting and/or querying requirements to the NPDB, are responsible for determining their eligibility to access the NPDB through a self-certification process that requires completing an Entity Registration process. All non-organizational users must re-register every 2 years to access the NPDB. The registration process consists of an electronic authentication process where each user needs to prove their identity and organizational affiliation based on requirements in the NIST SP 800–63 *Digital Identity Guidelines.*

Other administrative safeguards include system authorization that is required every 3 years which authorizes operation of the system based on acceptable risks. Through a continuous monitoring process, security assessments of the security controls implemented are conducted annually to verify compliance with all required controls. In addition, a Risk Assessment is conducted, at least annually, based on NIST SP 800–30 *Risk Management Guide for Information Technology Systems* guidance. Any weaknesses identified during the assessment are documented in the Plan of Actions and Milestones and monitored to effectively reduce risks and vulnerabilities to an acceptable level in accordance with HHS and HRSA policies.

Technical Safeguards. Technical safeguards include firewalls, network intrusion detection, host-based intrusion detection and file integrity monitoring, user identification, data loss prevention, and passwords restrictions. All web-based traffic is encrypted using 256-bit SSL and all network traffic is encrypted internally. All encryption used in the system meets FIPS 140–2 validation requirements. All NIST 800–53 rev 4 control families and Plastic Card Industry Data Security Standard control families selected and implemented are verified by third party auditors.

Physical Safeguards. At the NPDB Operations site, safeguards are in place 24 hours a day, 7 days a week and include picture identification badges, badge reader-controlled access, security guard monitoring, and fire and environmental safety controls. The cloud service provider provides physical safeguards to all its data centers. Physical access to the cloud service provider environment is logged, monitored, and retained. Physical access is controlled at building ingress points by professional security staff using surveillance, detection systems, and other electronic means. Authorized staff use multi-factor authentication

mechanisms to access data centers. Door alarming devices are also configured to detect instances where an individual exits or enters a data layer without providing multi-factor authentication. Alarms are immediately dispatched to the cloud service provider's 24/7 operations center for immediate logging, analysis, and response.

RECORD ACCESS PROCEDURES:

Although this system of records is exempt from the Privacy Act access requirement, the exemption is limited to law enforcement query records and is discretionary. Notwithstanding the access exemption, an individual record subject (individual health care practitioner, provider, or supplier) may seek access to any records about that individual in the NPDB. Access requests will be governed by NPDB-specific access provisions in 45 CFR 60.18 and 60.19.

Information Available by Self-Query. Individuals may generally access records about them over the web by registering to use the NPDB web application(s) and submitting an on-line form (also known as a self-query) or viewing a specific report on-line after being notified via U.S. mail that a report has been submitted to the NPDB and paying a fee. Report subjects will receive, with their self-query response, an accounting of disclosures that have been made of report records about them, if any, excluding any disclosures that were made in response to law enforcement queries (consistent with 5 U.S.C. 552a(c)(3) and the access exemption established for this system of records).

Requests by Electronic Transmission. Alternatively, individuals may submit a written request for records about them, electronically, to the NPDB website. The request must include the same identifying information listed in ''Requests by Mail,'' below and requires paying a fee. For identity verification purposes, the request can be notarized, then mailed to the NPDB address specified in ''Requests by Mail'' below or uploaded to the NPDB website for processing. Qualified practitioners can also use Experian Precise ID for online identity proofing as an alternative to the paper-based notarization process. Output is delivered via U.S. mail or returned online.

Requests by Mail. As an alternative to making a request by self-query or by electronic transmission, individuals may submit a ''Request for Information Disclosure'' to the NPDB, P.O. Box 10832, Chantilly, VA 20153–0832 for any report about them. The request must contain the following identifying information: name, address, date of birth, Social Security Number (optional), professional schools and years of graduation, and the professional license(s). For license requests, the following must be included: the license number, the field of licensure, the name of the state or territory in which the license is held and, if applicable, Drug Enforcement Administration registration number(s). The practitioner must submit the completed form, signed and notarized, and pay a fee, before the self-query request will be fulfilled.

Requests in Person. Due to security considerations, the NPDB cannot accept requests in person.

Requests by Telephone. As an alternative to self-query, electronic transmission, or mail, individuals may make an access request by telephone, by providing all of the applicable identifying information listed pertaining to them in ''Requests by Mail'' above to the NPDB Customer Service Center operator. The NPDB Customer Service Center operator will complete the form and mail it to the practitioner for verification. Once verified, the practitioner must submit the completed form, signed and notarized, and pay a fee, before the self-query request will be fulfilled.

Penalties for Violation. Submitting a request under false pretenses is a criminal offense and subject to a civil monetary penalty (currently up to $25,076 as of 2022, and subject to increase each year based on inflation) for each violation. See 42 CFR 1003.810.

CONTESTING RECORD PROCEDURES:

Because of the system of records' exemptions (described in the below ''Exemptions'' section), the procedures for disputing an NPDB report will not apply to law enforcement query history information that is exempt from access. All amendment requests will be governed by NPDB-specific amendment provisions in 45 CFR 60.21.

The NPDB mails (based on the address provided in the report) or emails (based on the email address provided by the subject) a notification of any report filed in it to the subject individual. A subject individual may contest the accuracy of information in the NPDB and file a dispute. To dispute the accuracy of the information, the individual must contact the NPDB and the reporting entity to: (1) request that the reporting entity file a correction to the report and (2) request the information be entered into a ''disputed'' status and submit a statement regarding the basis for the inaccuracy of the information in the report. If the reporting entity declines to change the disputed report or takes no action, the subject may request that the Secretary of HHS review the disputed report. To seek a review, the subject must: (1) provide written documentation containing clear and brief factual information regarding the information of the report, (2) submit supporting documentation or justification substantiating that the reporting entity's information is inaccurate, and (3) submit proof that the subject individual has attempted to resolve the disagreement with the reporting entity but was unsuccessful. HHS can only determine whether the report was legally required to be filed and whether the report accurately depicts the action taken and the reporter's basis for action. Additional detail on the process of dispute resolution can be found in the NPDB regulations, at 45 CFR 60.21.

NOTIFICATION PROCEDURES:

An individual report subject is notified via U.S. mail or email when a report concerning that individual is submitted to the NPDB via Subject Notification Document; however, the mail or email address may not be current. A subject individual may make a notification request, inquiring whether the system of records contains a record about them, in the same manner specified in the ''Record Access Procedures'' section, above, for making an access request. This procedure is unchanged by the exemption published for the system of records. The procedure is governed by NPDB-specific provisions in 45 CFR 60.18 and 60.19.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary has exempted law enforcement query records in this system of records from certain provisions of the Privacy Act. In accordance with 5 U.S.C. 552a(k)(2) and 45 CFR 5b.11(b)(2)(ii)(L), with respect to law enforcement query records, this system of records is exempt from subsections (c)(3), (d)(1)–(4), (e)(4)(G) and (H), and (f) of 5 U.S.C. 552a. See 76 FR 72325 (Nov. 23, 2011).

HISTORY:

78 FR 47322 (Aug. 5, 2013), 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2023–06096 Filed 3–23–23; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Countermeasures Injury Compensation Program—OMB No. 0915–0334—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 24, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or by mail to the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Countermeasures Injury Compensation Program—OMB No. 0915–0334—Extension.

Abstract: This is a request for continued OMB approval of the information collection requirements for the Countermeasures Injury Compensation Program (CICP or Program). The CICP, within the Division of Injury Compensation Programs, Health Systems Bureau, HRSA, administers this compensation program as specified by the Public Readiness and Emergency Preparedness Act (PREP Act). CICP is requesting continued approval for this information collection which includes documents specified in the CICP's regulations (42 CFR part 110).

The PREP Act created the CICP and provides liability immunity to covered persons for claims of loss caused by, arising out of, relating to, or resulting from the administration or use of covered countermeasures for diseases, threats, and conditions identified in PREP Act declarations. The immunity extended in the PREP Act encourages the development, manufacture, testing, distribution, and administration/use of countermeasures (*e.g.,* vaccine, medication, device) when a disease, health condition, or other threat to health constitutes a public health emergency, or there is a credible risk that it may in the future constitute such an emergency.

A 60-day notice was published in the **Federal Register** on January 4, 2023, vol. 88, No. 2; pp. 358. There were no public comments.

Need and Proposed Use of the Information: CICP provides compensation to eligible individuals who suffer serious injuries or death directly caused by a covered countermeasure administered or used pursuant to a PREP Act Declaration or to their estates and/or to certain survivors. An individual who is an injured countermeasure recipient, the individual's legal representative, or the estate or survivor(s) of an injured countermeasure recipient is responsible for submitting the Request for Benefits (RFB) package, as well as the injured countermeasure recipient's medical records and supporting documentation. Individuals are able to apply at any time, but eligibility for compensation is subject to meeting applicable filing deadlines and other requirements.

To determine whether a requester is eligible for Program benefits (compensation) for a countermeasure injury, CICP staff must review the RFB package which includes the following:

(1) RFB Form and Supporting Documentation

The RFB Form and supporting documentation initiate the CICP claims review process. They also serve as the CICP's mechanism for gathering required information about the requester, documenting the use or administration of a countermeasure, and obtaining medical information about the countermeasure recipient.

(2) Authorization for Use or Disclosure of Health Information Form (Authorization Form) The Authorization Form is completed by the requester and gives medical providers permission to disclose the countermeasure recipient's health information via medical records to CICP for the purpose of determining eligibility for CICP benefits.

(3) Additional Documentation and Certification

During the eligibility review, CICP provides requesters with the opportunity to supplement their RFB with additional medical records and supporting documentation before the Program makes a final decision. CICP asks requesters to complete and sign a form indicating whether they intend to submit additional documentation prior to the final determination of their case. After CICP makes a final decision on a case, there are no other opportunities for a requester to submit additional medical records or supporting documents.

(4) Benefits Package and Supporting Documentation

A requester who is an injured countermeasure recipient may be eligible to receive benefits for unreimbursed medical expenses and/or lost employment income. The estate of a deceased countermeasure recipient may also be eligible to receive payment for unreimbursed medical expenses and/or lost employment income accrued prior to the injured countermeasure recipient's death. These documents ask the requester to submit documentation of the countermeasure recipient's unreimbursed medical expenses and lost employment income. If death was the result of the administration or use of the countermeasure, certain survivor(s) of eligible deceased countermeasure recipients may be eligible to receive a death benefit, but not unreimbursed medical expenses or lost employment income benefits (42 CFR 110.33). These documents request additional information, such as a marriage license, from the requester to prove that they are a survivor of the deceased countermeasure recipient.

The RFB that CICP sends to requesters who may be eligible for compensation includes certification forms and instructions outlining the supporting documentation needed to determine the type and amount of benefits. This documentation is required under 42 CFR 110.60–110.63 of CICP's implementing regulation to enable the Program to determine the type and amount of benefits the requester may be eligible to receive.

Likely Respondents: Countermeasure claimants are the most likely respondents to this **Federal Register** notice regarding the CICP information collection request because CICP reviews and, if eligible, compensates countermeasure recipient injury claims.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain,

disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
RBF Form and Supporting Documentation	100	1	100	11.000	1,100.00
Authorization Form	100	1	100	2.000	200.00
Additional Documentation and Certification	30	1	30	0.750	22.50
Benefits Package and Supporting Documentation	30	1	30	0.125	3.75
Total	260		260		1,326.25

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–06134 Filed 3–23–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0937–0198]

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 23, 2023.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 264–0041 and *PRA@HHS.GOV.*

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0937–0198–60D and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov, PRA@HHS.GOV* or call (202) 264–0041 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: Public Health Service Policies on Research Misconduct (42 CFR part 93).

Type of Collection: Extension.

OMB No: OS–0937–0198.

Abstract: The Office of Research Integrity is requesting an extension on a currently approved collection. The purpose of the Institutional Assurance and Annual Report on Possible Research Misconduct form PHS–6349 is to provide data on the amount of research misconduct activity occurring in institutions conducting PHS-supported research. The purpose of the Assurance of Compliance by Sub-Award Recipients forms PHS–6315 is to establish an assurance of compliance for a sub-awardee institution. Forms PHS 6349 and PHS–6315 are also used to provide an annual assurance that the institution has established and will follow administrative policies and procedures for responding to allegations of research misconduct that comply with the Public Health Service (PHS) Policies on Research Misconduct (42 CFR part 93). Research misconduct is defined as receipt of an allegation of research misconduct and/or the conduct of an inquiry and/or investigation into such allegations. These data enable the ORI to monitor institutional compliance with the PHS regulation.

There were minor revisions made on forms PHS–6349 and PHS–6315. The revisions will not alter the data collection.

Need and Proposed Use: The information is needed to fulfill section 493 of the Public Health Service Act (42 U.S.C. 289b), which requires assurances from institutions that apply for financial assistance under the Public Health Service Act for any project or program that involves the conduct of biomedical or behavioral research. In addition, the information is also required to fulfill the assurance and annual reporting requirements of 42 CFR part 93. ORI uses the information to monitor institutional compliance with the regulation. Lastly, the information may be used to respond to congressional requests for information to prevent misuse of Federal funds and to protect the public interest.

ESTIMATED ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
PHS–6349	Awardee Institutions	5,770	1	10/60	961
PHS–6315	Sub-Awardee Institutions	156	1	5/60	13
Total					

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023–06161 Filed 3–23–23; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices and Medical Imaging.

Date: April 5, 2023.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Willard Wilson, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–867–5309, *willard.wilson@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 20, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–06086 Filed 3–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be held as a hybrid (in person and virtual) meeting and is open to the public. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed as below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting website (*http://videocast.nih.gov*).

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: May 1–2, 2023.

Time: May 1, 2023, 9:00 a.m. to 5:00 p.m.

Agenda: NCMRR Director's report; NCMRR Portfolio Analysis; Report out on NCMRR Conferences; Research Talk: Therapeutic Strategies to Maximize Development in Children with Neuromotor Disorders; Research Talk: Neural and Biomechanical Contributors to Posture and Movement; Training and Career Development Breakout Groups.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, MPR, Bethesda, MD 20892–7510.

Time: May 2, 2023, 9:00 a.m. to 12:30 p.m.

Agenda: NICHD Director's report; Report out from Breakout Groups and Training Work Group formation; Science Talk: Knowledge Translation; Concept Clearance; Comments from Retiring Board Members; Planning for Next Board Meeting in December 2023.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, MPR, Bethesda, MD 20892–7510.

Contact Person: Ralph M. Nitkin, Ph.D., Deputy, National Center for Medical Rehabilitation Research and Director, Biological Sciences and Career Development Program, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2116, Bethesda, MD 20892–7510, (301) 402–4206, *nitkinr@mail.nih.gov*.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Additional Health and Safety Guidance: Before attending a meeting at an NIH facility, it is important that visitors review the NIH COVID–19 Safety Plan at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/Pages/default.aspx* for information about requirements and procedures for entering NIH facilities, especially when COVID–19 community levels are medium or high. In addition, the Safer Federal Workforce website has FAQs for visitors at *https://www.saferfederalworkforce.gov/faq/visitors/*. Please note that if an individual has a COVID–19 diagnosis within 10 days of the meeting, that person must attend virtually. (For more information please read NIH's Requirements for Persons after Exposure at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/persons-after-exposure.aspx* and What Happens When Someone Tests Positive at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/test-*

positive.aspx.) Anyone from the public can attend the open portion of the meeting virtually via the NIH Videocasting website (*http://videocast.nih.gov*). Please continue checking these websites, in addition to the committee website listed below, for the most up to date guidance as the meeting date approaches.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/advisory/nabmrr,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 21, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–06155 Filed 3–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given for the meeting on April 27, 2023, of the Substance Abuse and Mental Health Services Administration National Advisory Council (SAMHSA NAC). The meeting is open to the public and can also be accessed virtually. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include, but not be limited to, remarks from the Assistant Secretary for Mental Health and Substance Use; approval of the meeting minutes of August 10, 2022; updates and recap of the joint meetings of the councils (JNAC) and Lessons Learned; presentations on initiatives by the National Mental Health and Policy Laboratory; update on the Strategic Plan and Public Comment Response; and Overview of the Evidence-Based Practices Resource Center with group discussion; a presentation and discussion regarding the integration of equity; updates on the Interagency Task Force on Trauma Informed Care; updates on the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC); updates on the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC); Council discussion and public comments.

DATES: March 27, 2023, 10:00 a.m. to approximately 3:15 p.m. EDT, Open.

ADDRESSES: 5600 Fishers Lane, Rockville, Maryland 20857 (Pavilion rooms).

FOR FURTHER INFORMATION CONTACT: Carlos Castillo, Committee Management Officer and Designated Federal Official; SAMHSA National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail); telephone: (240) 276–2787; email: *carlos.castillo@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The SAMHSA NAC was established to advise the Secretary, Department of Health and Human Services (HHS), and the Assistant Secretary for Mental Health and Substance Use, SAMHSA, to improve the provision of treatments and related services to individuals with respect to substance use and to improve prevention services, promote mental health, and protect legal rights of individuals with mental illness and individuals with substance use disorders or misuse.

Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions must be forwarded to the contact person no later than 7 days before the meeting. Oral presentations from the public will be scheduled for the public comment section at the end of the council discussion. Individuals interested in making oral presentations must notify the contact person by 1:00 p.m. (EDT), April 19, 2023. Up to three minutes will be allotted for each presentation, and as time permits, as these are presented in the order received. Public comments received will become part of the meeting records.

To obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with the contact person.

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's website at *https://www.samhsa.gov/about-us/advisory-councils/,* or by contacting Carlos Castillo.

Dated: March 21, 2023.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2023–06153 Filed 3–23–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Joint Meeting of the National Advisory Councils

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Notice is hereby given of the combined (joint) meeting on April 26, 2023, of the Substance Abuse and Mental Health Services Administration's (SAMHSA) four National Advisory Councils: the SAMHSA National Advisory Council (NAC), the Center for Mental Health Services NAC, the Center for Substance Abuse Prevention NAC, the Center for Substance Abuse Treatment NAC; and the two SAMHSA Advisory Committees: Advisory Committee for Women's Services (ACWS) and the Tribal Technical Advisory Committee (TTAC).

DATES: Written submissions should be forwarded to the contact person by April 15, 2023. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations must notify the contact by April 15, 2023. Up to three minutes will be allotted for each presentation, as time permits.

ADDRESSES: The meeting is open to the public and will be held at the Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, MD 20857. Attendance by the public will be limited to space available. Interested persons may present data, information, or views orally or in writing, on issues pending before the Council.

The meeting may be accessed via telephone and remotely via Zoom platform. To attend on site, obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with

disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with SAMHSA's Committee Management Officer, Carlos Castillo (see contact information below).

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's website at: *https://www.samhsa.gov/about-us/advisory-councils,* or by contacting Carlos Castillo. Substantive program information may be obtained after the meeting by accessing the SAMHSA Council's website at: *https://www.samhsa.gov/about-us/advisory-councils.*

FOR FURTHER INFORMATION CONTACT: Carlos Castillo, Committee Management Officer, Room 18E77A, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (240) 276–2787, Email: *carlos.castillo@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The meeting will include remarks from the Assistant Secretary for Mental Health and Substance Use; SAMHSA's updates by the Centers and Office Directors; a presentation and discussion addressing the Children's Mental Health Crisis; discussion/feedback on how to improve the mental health and substance use disorders services during a public health emergency; and a presentation and discussion on the impact on Fentanyl in American communities.

Council Names:

Substance Abuse and Mental Health Services Administration National Advisory Council
Center for Mental Health Services National Advisory Council
Center for Substance Abuse Prevention National Advisory Council
Center for Substance Abuse Treatment National Advisory Council
Advisory Committee for Women's Services
Tribal Technical Advisory Committee

Date/Time/Type: April 26, 2023, 9 a.m. to 3:15 p.m. (approx.) EDT, Open.

Place: Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, Maryland 20857.

SAMHSA's National Advisory Councils were established to advise the Secretary, Department of Health and Human Services (HHS); the Assistant Secretary for Mental Health and Substance Use, SAMHSA; and SAMHSA's Center Directors concerning matters relating to the activities carried out by and through the Centers and the policies respecting such activities.

Under Section 501 of the Public Health Service Act, the ACWS is statutorily mandated to advise the SAMHSA Assistant Secretary for Mental Health and Substance Use and the Associate Administrator for Women's Services on appropriate activities to be undertaken by SAMHSA and its Centers with respect to women's substance abuse and mental health services.

Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of September 23, 2004, SAMHSA established the TTAC for working with Federally recognized Tribes to enhance the government-to-government relationship, and honor Federal trust responsibilities and obligations to Tribes and American Indian and Alaska Natives. The SAMHSA TTAC serves as an advisory body to SAMHSA.

Dated: March 21, 2023.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2023–06154 Filed 3–23–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Trade Facilitation and Cargo Security Summit 2023

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of 2023 Trade Facilitation and Cargo Security Summit.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) will convene the 2023 Trade Facilitation and Cargo Security (TFCS) Summit in Boston, MA, on April 17–19, 2023. The 2023 TFCS Summit will be open for the public to attend in person or via webinar. The 2023 TFCS Summit will feature CBP personnel, members of the trade community, and members of other government agencies in panel discussions on CBP's role in international trade initiatives and programs. Members of the international trade and transportation communities and other interested parties are encouraged to attend.

DATES: Monday, April 17, 2023 (opening remarks and general sessions, 8:00 a.m.–5:00 p.m. EDT), and Tuesday, April 18 and Wednesday, April 19, 2023 (breakout sessions, 8:00 a.m.–5:00 p.m. EDT).

ADDRESSES: The 2023 Trade Facilitation and Cargo Security Summit will be held at the Omni Boston Hotel at the Seaport at 450 Summer St, Boston, MA 02210. Directional signage will be displayed throughout the event space for registration, the sessions, and the exhibits.

Registration: Registration is open and will close on Thursday, April 6 at 4:00 p.m. EDT. Registration information may be found on the event web page at *https://www.cbp.gov/trade/stakeholder-engagement/trade-facilitation-and-cargo-security-summit.* All registrations must be made online and will be confirmed with payment by credit card only. The registration fee to attend in person is $320.00 per person. The registration fee to attend via webinar is $24.00. Interested parties are requested to register immediately as space is limited. Members of the public who are pre-registered to attend and later need to cancel, may do so by using the link from their confirmation email or sending an email to *TFCSSummit@cbp.dhs.gov.* Please include your name and confirmation number with your cancellation request. Cancellation requests made after Friday, March 24, 2023, will not receive a refund.

FOR FURTHER INFORMATION CONTACT: Mrs. Daisy Castro, Office of Trade Relations, U.S. Customs and Border Protection at (202) 344–1440 or at *TFCSSummit@cbp.dhs.gov.* The most current 2023 TFCS Summit information can be found at *https://www.cbp.gov/trade/stakeholder-engagement/trade-facilitation-and-cargo-security-summit.*

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Mrs. Daisy Castro, Office of Trade Relations, U.S. Customs and Border Protection at (202) 344–1440 or at *TFCSSummit@cbp.dhs.gov,* as soon as possible.

SUPPLEMENTARY INFORMATION: This document announces that U.S. Customs and Border Protection (CBP) will convene the 2023 Trade Facilitation and Cargo Security (TFCS) Summit in Boston, MA on April 17–19, 2023. The format of the 2023 TFCS Summit will consist of general sessions on the first day and breakout sessions on the second and third days. The 2023 TFCS Summit will feature panels composed of CBP personnel, members of the trade community, and members of other government agencies. The panel discussions will address the Customs Trade Partnership Against Terrorism (CTPAT), the Uyghur Forced Labor Prevention Act (UFLPA), the 21st Century Customs Framework (21CCF), the Automated Commercial Environment (ACE) 2.0, and other topics. The 2023 TFCS Summit agenda can be found on the CBP website: *https://www.cbp.gov/trade/stakeholder-*

engagement/trade-facilitation-and-cargo-security-summit.

Hotel accommodations have been made at the Omni Boston Hotel at the Seaport at 450 Summer Street, Boston, MA 02210. Hotel room block reservation information can be found on the event web page at *https://www.cbp.gov/trade/stakeholder-engagement/trade-facilitation-and-cargo-security-summit.*

Dated: March 21, 2023.

Felicia M. Pullam,

Executive Director, Office of Trade Relations.

[FR Doc. 2023–06152 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7076–N–07]

60-Day Notice of Proposed Information Collection: Emergency Housing Vouchers and Stability Vouchers; OMB Control No.: 2577–0297

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) to reinstate the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 23, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov,* telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: Emergency Housing Voucher and Stability Voucher Data Collection.

OMB Approval Number: OMB: 2577–0297.

Type of Request: Reinstatement of expired data collection.

Form Number: HUD Financial Forms, HUD–52681–B.

Description of the need for the information and proposed use: This is a reinstatement of emergency PRA 2577–0297 which will then be discontinued. The data collected within this PRA has been absorbed by another collection 2577–0282.

The Housing Choice Voucher (HCV) Program was recently appropriated $43,439,000 for a new homeless voucher program in the Fiscal Year 2021 appropriation and $5,000,000,000 for Emergency Housing Vouchers in the American Rescue Plan of 2021. For both of these new voucher types it is necessary to have the ability to monitor and track the expenses and lease-up of these new vouchers to ensure utilization and appropriate program oversight. Without this data collection it will be impossible to recapture and reallocate unused vouchers per congressional mandate.

Overall, the Housing Choice Voucher program has the need to collect leasing and expenditure data from Public Housing Agencies (PHAs) on a monthly basis to determine utilization for these vouchers as well as apply cash management principles for funds accounting. Further, HUD needs to collect this leasing and expenditure information in an expedited manner to ensure that HUD can follow the congressional directive to ''revoke and redistribute any unleased vouchers and associated funds, including administrative costs to other public housing agencies.''

As a byproduct of the COVID–19 National Emergency, the American Rescue Plan of 2021 was enacted on March 11, 2021. The American Rescue Plan mandates that the Emergency Housing Vouchers must be allocated to the PHAs within 60 days of enactment. With this infusion of $5,000,000,000 in new vouchers it is essential for HUD to have the ability to collect leasing and expenditure information on these new vouchers to provide transparency and accountability to the American public.

In total, the ''Emergency Housing Voucher and Housing Stability Voucher Data Collection'' is anticipated to contain 20 fields. This data must be reported to HUD on a monthly basis once vouchers are allocated to the PHAs.

Respondents: Public Housing Authorities receiving voucher awards of Emergency Housing Vouchers and/or Housing Stability Vouchers.

ESTIMATION OF BURDEN HOURS

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Financial Form	700	12	8,400	1	8,400	$34	$285,600

Our burden estimate for the number of respondents is based the number of PHAs that have received EHV awards as well as PHAs that will receive Stability Vouchers. It is assumed that PHAs will submit data monthly which is used to calculate ''responses per annum''. This number is multiplied by the burden house per response to arrive at an

annual estimate of burden hours. This is then multiplied by median average wage of a ''Management Analyst'' according to the Bureau of Labor Statistics for 2021 to arrive at a total annual cost.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Steven Durham,

Acting Chief, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2023–06117 Filed 3–23–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NWRS–2023–N014; FXGO1664091HCC0–FF09D00000–190]

Hunting and Wildlife Conservation Council; Request for Nominations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for nominations.

SUMMARY: The U.S. Department of the Interior and Department of Agriculture are seeking member nominations to the Hunting and Wildlife Conservation Council (Council) to fill one vacancy for a representative from a State fish and wildlife management agency. The Council provides recommendations to the Federal Government, through the Secretary of the Interior and the Secretary of Agriculture, regarding the establishment and implementation of existing and proposed policies and authorities with regard to wildlife and habitat conservation endeavors that benefit wildlife resources; encourage partnership among the public, sporting conservation organizations, wildlife-associated recreation interests, and Federal, State, Tribal, and territorial governments; and benefit fair-chase recreational hunting and safe recreational shooting sports.

DATES: Nominations for the Council must be submitted by April 24, 2023.

ADDRESSES: You may submit nominations via email to *doug_hobbs@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Designated Federal Officer (DFO), by telephone at (703) 358–2336, or by email at *doug_hobbs@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Council is established under the authority of the Secretaries of the Department of the Interior (DOI) and the Department of Agriculture and regulated by the Federal Advisory Committee Act, as amended (FACA; 5 U.S.C. 10). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for implementation of Executive Order (E.O.) 13443, Facilitation of Hunting Heritage and Wildlife Conservation; E.O. 14008, Tackling the Climate Crisis at Home and Abroad; and Secretarial Order (S.O.) 3362, Improving Habitat Quality in Western Big Game Winter Range and Migration Corridors. Duties include, but are not limited to:

A. Assessing and quantifying implementation of E.O. 13443, E.O. 14008, and S.O. 3362 across relevant departments, agencies, and offices and making recommendations to enhance and expand their implementation as identified;

B. Making recommendations regarding policies and programs that accomplish the following objectives:

1. Conserve and restore wetlands, grasslands, forests, and other important wildlife habitats, and improve management of rangelands and agricultural lands to benefit wildlife;

2. Promote opportunities for fair chase hunting and safe recreational shooting sports and wildlife-associated recreation on public and private lands;

3. Encourage hunting and recreational shooting sports safety, including by developing sighting-in ranges on public lands;

4. Recruit and retain hunters;

5. Increase public awareness of the importance of wildlife conservation and the social and economic benefits of fair chase hunting, safe recreational shooting sports, and wildlife-associated recreation; and

6. Encourage coordination among the public; the hunting and shooting sports communities; wildlife conservation groups; wildlife-associated recreation interests; and Federal, State, Tribal, and territorial governments.

The Secretaries appoint members and their alternates to the Council to serve up to a 3-year term. The Council will not exceed 18 discretionary primary members, up to 18 alternate members, and 4 ex officio members. Ex officio members include:

- Secretary of the Interior or designated DOI representatives;
- Secretary of Agriculture or designated Department of Agriculture representatives; and
- Executive Director, Association of Fish and Wildlife Agencies.

The Secretaries select remaining members from among, but not limited to, the organization/interests listed below. These members must be senior-level representatives of their organization and/or have the ability to represent their designated constituencies.

- State fish and wildlife management agencies;
- Wildlife and habitat conservation/management organizations;
- Upland bird hunting organizations;
- Waterfowl hunting organizations;
- Big game hunting organizations;
- Shooting sports interests;
- Archery interests;
- Wildlife-associated recreation interests;
- Tourism, outfitter, and/or guide industries related to hunting and/or wildlife conservation;
- Tribal resource management organizations;
- Agriculture interests;
- Ranching interests; and
- Veterans' service organizations.

Vacancies to Fill

Nominations are sought to fill one primary member vacancy to represent State fish and wildlife management agencies.

Nomination Method and Information

Nominations should include a cover letter or email, and resume providing an

adequate description of the nominee's qualifications, including information that would enable DOI to make an informed decision regarding meeting the membership requirements of the Council and the national interest potentially represented, and to permit DOI to contact a potential member.

Members of the Council serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council or subcommittee business that the DFO approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 5 U.S.C. 10)

Barbara W. Wainman,

Assistant Director—Office of Communications.

[FR Doc. 2023–06076 Filed 3–23–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500169083]

Notice of Competitive Offer for Solar Energy Development on Public Lands in Saguache County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive offer.

SUMMARY: The Bureau of Land Management (BLM), Rocky Mountain District, Cañon City, Colorado, will accept competitive bids to lease public lands for solar energy projects on approximately 1,064 acres in Saguache County, Colorado.

DATES: The BLM will hold a competitive live auction at 10 a.m. local time on April 27, 2023.

ADDRESSES: The auction will be held at: BLM Rocky Mountain District Office, 3028 East Main Street, Cañon City, CO 81212.

FOR FURTHER INFORMATION CONTACT: Cathy Cook, District Manager, BLM Rocky Mountain District Office, by telephone: 719–269–8554 or email: *ccook@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Cook. 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 BLM Rocky Mountain District Office has received interest to lease lands within the De Tilla Gulch Solar Energy Zone (SEZ). The BLM will offer a lease for solar energy development within the SEZ in accordance with the competitive process described in 43 CFR part 2800, subpart 2809.

Based on the expressed interest, the SEZ will be offered in its entirety. The SEZ being offered for competitive solar lease is described in Public Land Order No. 7818, published in the **Federal Register** on July 5, 2013 (78 FR 40499), and available at: *https://www.federalregister.gov/documents/2013/07/05/2013-16215/public-land-order-no-7818-withdrawal-of-public-lands-for-the-protection-and-preservation-of-solar,* with additional information as follows:

De Tilla Gulch Solar Energy Zone

Saguache County, Colorado

The De Tilla Gulch SEZ consists of approximately 1,064 contiguous acres of public land, identified in the 2012 Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) and subsequent Approved Resource Management Plan (Solar RMP) Amendments/Record of Decision (ROD) as suitable for utility-scale solar energy development. The De Tilla Gulch SEZ is managed by the BLM's San Luis Valley Field Office. Detailed information on this SEZ, including maps, completed resource studies, and recommended design features can be viewed and downloaded at: *https://blmsolar.anl.gov/solar-peis/sez/co/de-tilla-gulch/.*

As provided in 43 CFR 2809.13(a), bidding will occur in a competitive auction, conducted in-person. The auction will be open to the public with potential limitations based on room capacity, and the event may be live-streamed. More information will be made available at *https://eplanning.blm.gov/eplanning-ui/project/2020899/510.* Interested bidders are required to pre-register by accessing the ePlanning site no later than 1 week prior to the scheduled auction to allow sufficient time for the BLM to verify qualifications. Under the requirements of 43 CFR 2803.10, qualified bidders must be:

- An individual, association, corporation, partnership, or similar business entity, or a Federal agency or State, Tribal, or local government;
- Technically and financially able to construct, operate, maintain, and terminate the use of the public lands being applied for; and
- Of legal age and authorized to do business in Colorado.

Bidders must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the leasing process and authorization period. You can demonstrate your financial and technical capability to construct, operate, maintain, and terminate a project by:

- Providing documentation of any previous successful experience in construction, operation, and maintenance of a similar facility on either public or non-public lands;
- Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or
- Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

Pre-registered bidders will be confirmed and assigned a bidder number before the auction commences. Complete details and frequently asked questions on the screening and bidding process can be found online at: *https://eplanning.blm.gov/eplanning-ui/project/2020899/510.*

The BLM has determined a minimum acceptable bid for the De Tilla Gulch SEZ of $35,824.88. The minimum bid consists of the following:

(1) Administrative costs incurred by the BLM—An administrative fee of approximately $6.79 per acre to cover the BLM's costs in preparing for and conducting the competitive offer, including preparation of the 2022 Offer for Competitive Leasing for De Tilla

Gulch SEZ Determination of NEPA Adequacy; and

(2) An amount determined by the authorized officer based on known or potential values of the parcel—In setting this amount, the BLM considered 100 percent of the acreage rent. The rent value of the land for the current year under the BLM's solar rental schedule was used.

The competitive offer will start at the minimum bid, and bidders may raise with subsequent bonus bids. The bidder with the highest total bid (minimum plus bonus bid) at the close of the auction will be declared the successful bidder and will be offered a ROW lease within the SEZ subject to payment terms, outlined as follows.

If you are the successful bidder, payment of the minimum bid and at least 20 percent of the winning bonus bid must be submitted to the BLM Rocky Mountain District by the close of business on the day of the auction.

Within 15 calendar days after the auction, you must pay the balance of the bonus bid and the first 12 months acreage rent to the Rocky Mountain District Office overseeing management of the San Luis Valley Field Office. Any required payments must be submitted by personal check, cashier's check, certified check, ACH bank draft, or money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management.

The BLM will offer you a ROW lease if you are the successful bidder and you: (1) satisfy the qualifications in 43 CFR 2803.10; (2) make the required payments listed earlier; and (3) do not have any trespass action pending against you for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. If the successful bidder does not satisfy these requirements, the BLM will not offer a lease to that bidder and will keep all money that has been submitted. In that event, the BLM may offer the lease to the next highest bidder; re-offer the lands through another competitive process; or make the lands available through the noncompetitive application process found in 43 CFR parts 2803, 2804, and 2805. The BLM will not issue the lease to the successful bidder until it ensures compliance with the requirements in Section 50265(b)(1) of the Inflation Reduction Act (IRA) (codified at 43 U.S.C. 3006(b)(1)). The IRA conditions the issuance of rights-of-way for wind and solar energy development on public lands on: (1) the BLM having held an onshore oil and gas lease sale during the 120-day period before the issuance of the right-of-way for wind or solar energy development; and (2) the BLM having offered—in the 1-year period preceding the date of the issuance of the solar or wind right-of-way—the lesser of 2 million acres or 50 percent of the oil and gas acreage for which expressions of interest had been submitted in that year.

The administrative fee portion of the minimum bid from the successful bidder will be retained by the agency to recover administrative costs for conducting the competitive bid and related processes. The remainder of the minimum bid and bonus bid from the successful bidder will be deposited with the U.S. Treasury. Neither amount will be returned or refunded to the successful bidder under any circumstance. If you are not the successful bidder, the BLM will return or refund the bid amount submitted with your bid. If no bid is received for a SEZ, then no lease will be issued and the BLM may choose to make the lands available through the non-competitive application process found in 43 CFR parts 2803, 2804, and 2805, or by competitive process at a later date.

Any lease issued will be subject to the terms and conditions specified in 43 CFR 2809.18, and additional requirements identified in the decision to conduct the offer, listed as follows:

(1) The lessee will prepare the following management plans, if applicable, and submit them to the BLM as part of its plan of development (POD) for approval following the issuance of a lease for the Project and prior to the BLM issuing a Notice to Proceed with construction:

- Worker Education and Awareness Plan;
- Health and Safety Program and Plan;
- Bird and Bat Conservation Strategy;
- Fire Management Plan;
- Lighting Management Plan;
- Integrated Weed Management Plan;
- Site Drainage Plan;
- Traffic Management Plan;
- Groundwater Monitoring and Reporting Plan;
- Surface Water Quality Management Plan;
- Stormwater Pollution Prevention Plan;
- Dust Abatement Plan;
- Spill Prevention and Emergency Response Plan;
- Hazardous Materials and Waste Management Plan;
- Decommissioning and Site Reclamation Plan; and
- Site Rehabilitation and Restoration Plan.

(2) The lessee will comply with all relevant protective measures and design features established in the Solar RMP Amendments ROD signed on Oct. 12, 2012. Specifically reference Appendix A.

(3) All processes under 36 CFR part 800 will be completed (which would likely include a Class III cultural survey) prior to any ground disturbing activities. All historic properties found will be avoided or mitigated in consultation with State Historic Preservation Office.

(4) Any mitigation resulting from an adverse effect to historic properties will be addressed through a Memorandum of Agreement as outlined in the Solar Programmatic EIS Programmatic Agreement.

(5) Appropriate protection measures will be applied to existing improvements (*e.g.,* canals and access to private lands) and rights-of-way within the SEZ and adjacent to other ancillary facilities (*e.g.,* gen-tie line(s) and substation) required for development of any leased parcels.

(6) If a POD is approved, the leaseholder would be able to use common varieties of stone and soil that are necessarily removed during construction of the project, without additional BLM authorization or payment, in constructing the project within the authorized right-of-way.

(7) A 2-year grazing notification will be provided to all potentially affected livestock permittees, giving them 2 years to make any financial, business, or management decisions.

(8) The leaseholder will compensate the grazing permittees for any range improvements affected or lost by solar lease operations.

(9) The leaseholder will construct new fences that will continue to keep the allotments and pastures separated as needed to mitigate for the removal of allotment and pasture fences.

(10) Rights-of-way for livestock grazing driveways may be granted by the BLM through solar lease parcels if requested by grazing permittees.

(11) Any POD submitted must address mitigation and compensation strategies for impacts to livestock grazing, and any agreement with the affected grazing permittee addressing these mitigation and compensation strategies must be submitted to the BLM concurrently with the POD.

(12) Following submission of a POD, the BLM shall initiate project-specific consultation with the United States Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act, if necessary. Consultation with USFWS under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act may also be required. These consultations may result in ''Take

Permit(s)'' containing additional design considerations, which the leaseholder will be required to incorporate into final project design, construction, and decommissioning plans.

(13) Once a POD is submitted, the BLM will determine whether a long-term monitoring strategy to establish quantitative monitoring objectives and indicators would need to be developed. The leaseholder or developer will be required to collect baseline data for this effort, in coordination with the BLM and other applicable agencies. For an example, see *https://blmsolar.anl.gov/documents/docs/Final_Riverside_East_LTMS_from_website.pdf.*

(14) If a POD is approved, the leaseholder or developer would be required to obtain all necessary State or Federal permits before engaging in any stream alteration or other activities affecting waterways.

(15) Prior to any ground-disturbing activity associated with an authorized POD, the leaseholder or developer will identify and protect evidence of the Public Land Survey System, as directed in 43 CFR 3809.420—Surface Management—(b)(9) Protection of survey monuments.

Additionally, the leaseholder will be subject to any measures the BLM identifies to address site-specific impacts to resources as part of the environmental review of leaseholder's proposed plan of development for the SEZ.

(Authority: 43 CFR 2809)

Douglas Vilsack,

BLM Colorado State Director.

[FR Doc. 2023–06027 Filed 3–23–23; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On March 20, 2023, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Arkansas in the lawsuit entitled United States, Louisiana Department of Environmental Quality, State of Maryland, and State of Nevada v. ABF Freight System, Inc., Civil Action No. 2:23–cv–02039–PKH.

This case relates to compliance with Clean Water Act requirements applicable to discharges of stormwater associated with industrial activity from transportation facilities operated by ABF Freight Systems, Inc. (ABF). ABF operates a national network of more than 200 freight terminals spread across the country. The Complaint alleges claims at nine of ABF's freight terminals based on inspections by EPA and state agencies. The proposed Consent Decree would resolve claims at all ABF freight terminals listed in Appendix A of the Consent Decree through the date of lodging. The Consent Decree would also require ABF to pay a civil penalty of $535,000 and implement compliance measures at all freight terminals currently operated nationwide (except in those located in the state of Washington). The states of Louisiana, Maryland, and Nevada are Co-Plaintiffs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, Louisiana Department of Environmental Quality, State of Maryland, and State of Nevada* v. *ABF Freight System, Inc.,* D.J. Ref. No. 90–5–1–1–11432. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $22.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–06138 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP JJDP Docket No. 1810]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention announces its next meeting.

DATES: Wednesday April 19, 2023 at 1 p.m.–3 p.m. ET.

ADDRESSES: The meeting will take place in the fourth floor conference room at the U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20210.

FOR FURTHER INFORMATION CONTACT: Visit the website for the Coordinating Council at *www.juvenilecouncil.gov* or or contact Julie Herr, Designated Federal Official (DFO), OJJDP, by telephone at (202) 598–6885, email at *Julie.herr@usdoj.gov;* or Maegen Barnes, Project Manager/Federal Contractor, by telephone (732) 948–8862, email at *Maegen.Barnes@vaultes.com.* Please note that the above phone numbers are not toll free.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention (''Council''), established by statute in the Juvenile and Delinquency Prevention Act of 1974 section 206(a) (42 U.S.C. 5616(a)), will meet to carry out its advisory functions. Information regarding this meeting will be available on the Council's web page at *www.juvenilecouncil.gov.* The meeting is open to the public, and available via online video conference, but prior registration is required (see below). In addition, meeting documents will be viewable via this website including meeting announcements, agendas, minutes and reports.

Although designated agency representatives may attend in lieu of members, the Council's formal membership consists of the following secretaries and/or agency officials; Attorney General (Chair), Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), Secretary of Health and Human Services (HHS), Secretary of Labor, Secretary of Education, Secretary of Housing and Urban Development, Secretary of the Interior, Assistant Secretary for the Substance and Mental Health Services Administration of HHS, Director of the

Office of National Drug Control Policy, Chief Executive Officer of AmeriCorps and the Director of U.S. Immigration and Customs Enforcement. Ten additional members are appointed by the President of the United States, Speaker of the U.S. House of Representatives, the U.S. Senate Majority Leader and the Chairman of the Committee on Indian Affairs of the Senate. Further agencies that take part in Council activities include the Departments of Agriculture and Defense.

Council meeting agendas are available on *https://juvenilecouncil.ojp.gov/.* Agendas will generally include: (a) Opening remarks and introductions; (b) Presentations and discussion of agency work; and (c) Council member announcements.

For security purposes and because space is limited, members of the public who wish to attend must register in advance of the meeting online at the meeting registration site, no later than Friday, April 14, 2023. Should issues arise with online registration, or to register by email, the public should contact Maegen Barnes, Project Manager/Federal Contractor (see above for contact information). If submitting registrations via email, attendees should include all of the following: Name, Title, Organization/Affiliation, Full Address, Phone Number, and Email. The meeting will also be available to join online via Webex, a video conferencing platform. Registration for this is also found online at *https://juvenilecouncil.ojp.gov/.*

Note: Photo identification will be required to attend the meeting at the Department of Labor Building.

Members of the public may submit written comments and questions in advance to Julie Herr (DFO) for the Council, at the contact information above. All comments and questions should be submitted no later than 5 p.m. ET on Friday, April 14, 2023.

Julie Herr,

Designated Federal Official, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2023–06080 Filed 3–23–23; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

215th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 215th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on Friday, May 5, 2023.

The meeting will occur from 8:30 a.m. to approximately 2:00 p.m. (ET), with a one-hour break for lunch. The meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Room C5515–1A/1B, Washington, DC 20210. The meeting will also be accessible via teleconference and some participants, as well as members of the public, may elect to attend virtually. Instructions for public teleconference access will be available on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council* approximately one week prior to the meeting.

The purpose of the open meeting is to set the topics to be addressed by the Council in 2023. Also, the ERISA Advisory Council members will receive an update from leadership of the Employee Benefits Security Administration (EBSA).

Organizations or members of the public wishing to submit a written statement may do so on or before Friday, April 28, 2023, to Christine Donahue, Designated Federal Officer, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to *donahue.christine@dol.gov.* Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Friday, April 28, 2023, will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests no later than Friday, April 28, 2023, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals who need special accommodations should contact the Designated Federal Officer no later than Friday, April 28, 2023, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

For more information about the meeting, contact the Designated Federal Officer at the address or telephone number above.

Signed at Washington, DC, this 21st day of March, 2023.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2023–06141 Filed 3–23–23; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Interstate Arrangement for Combining Employment and Wages

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 24, 2023.

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

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 3304(a)(9)(B), of the Internal Revenue Code (IRC) of 1986, requires States to participate in an arrangement for combining employment and wages covered under the different State laws for the purpose of determining unemployed workers' entitlement to unemployment compensation. The Interstate Arrangement for Combining Employment and Wages (CWC), promulgated at 20 CFR 616, requires the prompt transfer of all available employment and wages between States upon request. The Benefit Payment Promptness Standard, 20 CFR 640, requires the prompt payment of unemployment compensation including benefits paid under the CWC arrangement. Section 303(a)(6) of the Social Security Act grants authority to the Secretary to require States to report program information as deemed necessary. The ETA 586 report provides the Department with information necessary to measure the scope and effect of the program and monitor the performance of each State in responding to wage transfer requests and the payment of benefits. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 6, 2022 (87 FR 60711).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Interstate Arrangement for Combining Employment and Wages.

OMB Control Number: 1205–0029.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 848 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: March 20, 2023.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2023–06068 Filed 3–23–23; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Requirements Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 24, 2023.

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

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

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The Occupational Requirements Survey (ORS) is a nationwide survey that the BLS is conducting at the request of the Social Security Administration. The Social Security Administration (SSA), Members of Congress, and representatives of the disability community have all identified collection of updated information on the requirements of work in today's economy as crucial to the equitable and efficient operation of the Social Security Disability (SSDI) program. Estimates produced from the data collected by the ORS will be used by the SSA to update occupational requirements data in administering the SSDI and Supplemental Security Income programs. The ORS collects data from a sample of employers. These requirements of work data consist of information about the duties, responsibilities, and job tasks for a sample of occupations for each sampled employer. For additional substantive information about this ICR see the related notice published in the **Federal Register** on December 19, 2022 (87 FR 77640).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The current approval is scheduled to expire on August 31, 2024.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: Occupational Requirements Survey.

OMB Control Number: 1220–0189.

Affected Public: State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 12,450.

Total Estimated Number of Responses: 12,450.

Total Estimated Annual Time Burden: 13,639 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–06069 Filed 3–23–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 24, 2023.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2023–0002 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2023–0002.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–035–C

Petitioner: Ramaco Resources, LCC, P.O. Box 219, Verner, West Virginia 25650.

Mines: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia.

Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia.

Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia.

Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.

Laurel Fork, MSHA ID No. 46–09084, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

Modification Request: The petitioner requests a modification of 30 CFR 75.1002(a) to permit the use of battery-powered non-permissible surveying equipment, including, but not limited to, portable battery operated mine transits, total station surveying equipment, distance meters and data loggers within 150 feet of pillar workings or longwall faces.

The petitioner states that:

(a) To comply with the requirements of 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(b) Accurate surveying is critical to the safety of the miners.

(c) Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

The petitioner proposes the following alternative method:

(a) Using the following total station and theodolite and similar low voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater in or within 150 feet of pillar workings or longwall faces subject to the conditions of the Proposed Decision and Order (PDO):

(1) Sokkia—CX–105LN

(b)The equipment allowed under the PDO is low voltage or batterypowered, non-permissible total stations and theodolites with an IP rating of 66 or greater.

(c) The operator shall maintain a logbook for electronic surveying equipment with the equipment, in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook shall contain the date of manufacture and/or purchase date of each piece of electronic surveying equipment. The logbook shall be made available to MSHA upon request.

(d) All non-permissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is maintained in a safe operating condition. These examinations shall include:

(1) Checking the instrument for any physical damage and the integrity of the case;

(2) Removing the battery and inspecting for corrosion;

(3) Inspecting the contact points to ensure a secure connection to the battery;

(4) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(5) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The results of this examination shall be recorded in the logbook.

(f) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.153; the examination results shall be recorded weekly in the equipment's logbook. Examination entries in the logbook may be expunged after 1 year.

(g) The operator shall ensure that all non-permissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service shall be recorded in the equipment's logbook and shall include a description of the work performed.

(h) Non-permissible surveying equipment that shall be used within 150 feet of pillar workings or longwall faces

shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(i) Before setting up and energizing non-permissible electronic equipment within 150 feet of the pillar workings or longwall faces, the surveyor(s) shall conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock dusted and for the presence of accumulated float coal dust. If the rock dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment may not be energized until sufficient rock dust has been applied and/or the accumulations of float coal dust have been cleaned up. If non-permissible electronic surveying equipment is to be used in an area that has not been rock dusted within 40 feet of a working face where a continuous mining machine is used to extract coal, the area shall be rock dusted prior to energizing surveying equipment.

(j) All hand-held methane detectors shall be MSHA approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors shall provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing any of the non-permissible surveying equipment within 150 feet of pillar workings or longwall faces, methane tests shall be made in accordance with 30 CFR 75.323(a). Non-permissible surveying equipment shall not be used within 150 feet of pillar workings or the longwall face when production is occurring.

(l) All areas to be surveyed shall be pre-shifted according to 30 CFR 75.360 prior to surveying. If the area was not pre-shifted, a supplemental examination according to 30 CFR 75.361 shall be performed before any non-certified person enters the area. If the area has been examined according to 30 CFR 75.361, additional examination is not required.

(m) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible surveying equipment within 150 feet of pillar workings or longwall faces. A second person in the surveying crew, if there are two people in the crew, shall also continuously monitor for methane. That person shall either be a qualified person as defined in 30 CFR 75.151 or be in the process of being trained to be a qualified person but has yet to ''make such tests for a period of 6 months'' as required by 30 CFR 75.151. Upon completion of the 6-month training period the second person on the surveying crew shall become qualified in order to continue on the surveying crew. If the surveying crew consists of one person, rather than two, such person shall monitor for methane with two separate devices.

(n) Batteries contained in the surveying equipment shall be changed out or charged more than 150 feet away from pillar workings or the longwall face. Replacement batteries for the electronic surveying equipment shall be carried only in the compartment provided for a spare battery in the electronic equipment carrying case. Before each shift of surveying, all batteries for the electronic surveying equipment shall be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using non-permissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor shall confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of surveying equipment shall be properly trained to recognize the hazards and limitations associated with the use of surveying equipment in areas where methane could be present.

(q) All members of the surveying crew shall receive specific training on the terms and conditions of the PDO before using non-permissible electronic equipment within 150 feet of pillar workings or longwall faces. A record of the training shall be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO. When training is conducted on the terms and conditions of the PDO, an MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that surveying training was completed.

(s) The operator shall replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004, within one year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator shall replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO became final or any total station or the electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator shall maintain a cycle of purchasing new electronic surveying equipment whereby theodolites shall be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment shall be no older than 10 years from the date of manufacture.

(t) The operator is responsible for ensuring that all surveying contractors hired by the operator are using electronic equipment in accordance with the requirements of the PDO. The conditions of use in the PDO shall apply to all non-permissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces regardless of whether the equipment is used by the operator or by an independent contractor.

(u) Non-permissible surveying equipment may be used when production is occurring, subject to these conditions:

(1) On a mechanized mining unit (MMU) where production is occurring, non-permissible electronic surveying equipment shall not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as ''baloney skins'') or curtains.

(2) Production may continue while non-permissible electronic surveying equipment is used if the surveying equipment is used in a separate split of air from where production is occurring.

(3) Non-permissible surveying equipment shall not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plans.

(4) If, while surveying, a surveyor must disrupt ventilation, the surveyor shall cease surveying and communicate to the section foreman that the ventilation must be disrupted. Production shall stop while ventilation is disrupted. Ventilation control shall be reestablished immediately after the disruption is no longer necessary. Production shall only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans and other

applicable laws, standards, or regulations.

(5) Any disruption in ventilation shall be recorded in the logbook required by the PDO. The logbook shall include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption, the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

(6) All surveyors, section foreman, section crew members and other personnel who will be involved with or affected by surveying operations shall receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. Such training shall be completed before any non-permissible surveying equipment can be used while production is occurring. The operator shall keep a record of such training and provide such record to MSHA upon request.

(7) The operator shall provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2023–06070 Filed 3–23–23; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 24, 2023.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2023–0004 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2023–0004.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–037–C.

Petitioner: Ramaco Resources, LCC, P.O. Box 219, Verner, West Virginia 25650.

Mine: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia.

Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia.

Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia.

Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.

Laurel Fork, MSHA ID No. 46–09084, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.500(d) to permit the use of battery-powered nonpermissible surveying equipment, including, but not limited to, portable battery operated mine transits, total station surveying equipment, distance meters, and data loggers in or inby the last open crosscut.

The petitioner states that:

(a) To comply with requirements of 30 CFR 75.372 and 75.1200 use of the most practical and accurate surveying equipment is necessary.

(b) Mechanical surveying equipment has been obsolete for several years. Such equipment of acceptable quality is not commercially available, and it is difficult, if not impossible, to have such equipment serviced or repaired.

(c) Electronic surveying equipment is, at a minimum, eight to ten times more accurate than mechanical equipment.

(d) The mine uses the continuous mining machine method of mining.

(e) Accurate surveying is critical to the safety of the miners.

(f) Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

The petitioner proposes the following alternative method:

(a) Using the following total station and theodolite and similar low voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater in or inby the last open crosscut subject to the conditions of the Proposed Decision and Order (PDO):

(1) Sokkia—CX–105LN.

(b) The equipment allowed under the PDO is low voltage or battery-powered non-permissible total stations and theodolites with an IP rating of 66 or greater.

(c) The operator shall maintain a logbook for electronic surveying equipment with the equipment, in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each piece of electronic surveying equipment. The logbook shall be made available to MSHA upon request.

(d) All non-permissible electronic surveying equipment to be taken into or inby the last open crosscut shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is maintained in a safe operating condition. These examinations shall include:

(1) Checking the instrument for any physical damage and the integrity of the case;

(2) Removing the battery and inspecting for corrosion;

(3) Inspecting the contact points to ensure a secure connection to the battery;

(4) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(5) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

The results of this examination shall be recorded in the logbook.

(e) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.153; the examination results shall be recorded weekly in the equipment's logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator shall ensure that all non-permissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service shall be recorded in the equipment's logbook and shall include a description of the work performed.

(g) The non-permissible surveying equipment to be taken into or inby the last open crosscut shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Non-permissible surveying equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the non-permissible surveying equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 shall be complied with prior to being taken into or inby the last open crosscut.

(i) Before setting up and energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor(s) shall conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment shall not be energized until sufficient rock dust has been applied and/or the accumulations of float coal dust have been removed. If nonpermissible electronic surveying equipment is to be used in an area that has not been rock-dusted within 40 feet of a working face where a continuous mining machine is used to extract coal, the area shall be rock-dusted prior to energizing the electronic surveying equipment.

(j) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors shall provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing any of the non-permissible surveying equipment in or inby the last open crosscut, methane tests shall be made in accordance with 30 CFR 75.323(a).

(l) All areas to be surveyed shall be pre-shifted according to 30 CFR 75.360 prior to surveying. If the area was not pre-shifted, a supplemental examination according to 30 CFR 75.361 shall be performed before any non-certified person enters the area. If the area has been examined according to 30 CFR 75.360 or 75.361, additional examination is not required.

(m) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut. A second person in the surveying crew, if there are two people in the crew, shall also continuously monitor for methane. That person shall be a qualified person as defined in 30 CFR 75.151 or be in the process of being trained to be a qualified person but have yet to ''make such tests for a period of 6 months'' as required by 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew shall become qualified in order to continue on the surveying crew. If the surveying crew consists of only one person, they shall monitor for methane with two separate devices.

(n) Batteries contained in the surveying equipment shall be changed out or charged in intake air outby the last open crosscut. Replacement batteries for the electronic surveying equipment shall be carried only in the electronic equipment carrying case spare battery compartment. Before each surveying shift, all batteries for the electronic surveying equipment shall be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using non-permissible electronic surveying equipment in or inby the last open crosscut, the surveyor shall confirm by measurement or by inquiry of the person in charge of the section that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity required by the mine's ventilation plan.

(p) Personnel engaged in the use of surveying equipment shall be properly trained to recognize the hazards and limitations associated with the use of surveying equipment in areas where methane could be present.

(q) All members of the surveying crew shall receive specific training on the terms and conditions of the PDO before using non-permissible electronic equipment in or inby the last open crosscut. A record of the training shall be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions of the PDO, a MSHA Certificate of Training (Form 5000–23) shall be completed and shall include comments indicating it was surveyor training.

(s) The operator shall replace or retire from service any electronic surveying instrument acquired prior to December 31, 2004, within 1 year of the PDO becoming final. Within 3 years of the date the PDO becomes final, the operator shall replace or retire from service any theodolite acquired more than 5 years prior to the date the granted PDO became final and any total station or other electronic surveying equipment identified in the PDO acquired more than10 years prior to the date the PDO became final. After 5 years, the operator shall maintain a cycle of purchasing new electronic surveying equipment so that theodolites shall be no older than 5 years from date of manufacture and

total stations and other electronic surveying equipment shall be no older than 10 years from date of manufacture.

(t) The operator is responsible for ensuring that all surveying contractors hired by the operator use electronic equipment in accordance with the requirements of the PDO. The conditions of use specified in the PDO shall apply to all non-permissible electronic surveying equipment used in or inby the last open crosscut regardless of whether the equipment is used by the operator or by an independent contractor.

(u) Non-permissible surveying equipment may be used when production is occurring, subject to these conditions:

(1) On a mechanized mining unit (MMU) where production is occurring, non-permissible electronic surveying equipment shall not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as ''baloney skins'') or curtains.

(2) Production may continue while non-permissible electronic surveying equipment is used if the surveying equipment is used in a separate split of air from where production is occurring.

(3) Non-permissible surveying equipment shall not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

(4) If while surveying a surveyor must disrupt ventilation, the surveyor shall cease surveying and communicate to the section foreman that ventilation must be disrupted. Production shall stop while ventilation is disrupted. Ventilation controls shall be reestablished immediately after the disruption is no longer necessary. Production shall only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans and other applicable laws, standards, or regulations.

(5) Any disruption in ventilation shall be recorded in the logbook required by the PDO. The logbook shall include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption, the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

(6) All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations shall receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. Such training shall be completed before any non-permissible surveying equipment can be used while production is occurring. The operator shall keep a record of such training and provide it to MSHA upon request.

(7) The operator shall provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide it to MSHA upon request.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2023–06072 Filed 3–23–23; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 24, 2023.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2023–0003 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2023–0003.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2022–036–C.

Petitioner: Ramaco Resources, LCC, P.O. Box 219, Verner, West Virginia 25650.

Mine: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia.

Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia.

Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia.

Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.

Laurel Fork, MSHA ID No. 46–09084, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

Modification Request: The petitioner requests a modification of 30 CFR 75.507–1(a) to permit the use of battery-powered nonpermissible surveying equipment, including, but not limited to, portable battery operated mine transits, total station surveying equipment, distance meters, and data loggers used in return air outby the last open crosscut.

The petitioner states that:

(a) To comply with the requirements of 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(b) Accurate surveying is critical to the safety of the miners.

(c) Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

The petitioner proposes the following alternative method:

(a) Using the following total station and theodolite and similar low voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater in return air outby the last open crosscut subject to the conditions of the Proposed Decision and Order (PDO):

(1) Sokkia—CX–105LN.

(b) The equipment allowed under the PDO is low voltage or battery-powered non-permissible total stations and theodolites with an IP rating of 66 or greater.

(c) The operator shall maintain a logbook for electronic surveying equipment with the equipment, in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook shall contain the date of manufacture and/or purchase of each piece of electronic surveying equipment. The logbook shall be made available to MSHA upon request.

(d) All non-permissible electronic surveying equipment to be used in the return air outby the last open crosscut shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is maintained in a safe operating condition. These examinations shall include:

(1) Checking the instrument for any physical damage and the integrity of the case;

(2) Removing the battery and inspecting for corrosion;

(3) Inspecting the contact points to ensure a secure connection to the battery;

(4) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(5) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

The results of this examination shall be recorded in the logbook.

(e) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.153; the examination results shall be recorded weekly in the equipment's logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator shall ensure that all non-permissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service shall be recorded in the equipment's logbook and shall include a description of the work performed.

(g) The non-permissible surveying equipment that will be used in the return airway outby the last open crosscut shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Non-permissible surveying equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the non-permissible surveying equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn from the return airway outby the last open crosscut. All requirements of 30 CFR 75.323 shall be complied with prior to entering the return airway outby the last open crosscut.

(i) Before setting up and energizing nonpermissible electronic surveying equipment in the return airway outby the last open crosscut, the surveyor(s) shall conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment shall not be energized until sufficient rock dust has been applied and/or the accumulations of float coal dust have been removed. If nonpermissible electronic surveying equipment is to be used in an area that has not been rock-dusted within 40 feet of a working face where a continuous mining machine is used to extract coal, the area shall be rock-dusted prior to energizing the electronic surveying equipment.

(j) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors shall provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing any of the non-permissible surveying equipment in the return airway outby the last open crosscut, methane tests shall be made in accordance with 30 CFR 75.323(a).

(l) All areas to be surveyed shall be pre-shifted according to 30 CFR 75.360 prior to surveying. If the area was not pre-shifted, a supplemental examination according to 30 CFR 75.361 shall be performed before any non-certified person enters the area. If the area has been examined according to 30 CFR 75.360 or 75.361, additional examination is not required.

(m) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in the return airway outby the last open crosscut. A second person in the surveying crew, if there are two people in the crew, shall also continuously monitor for methane. That person shall be a qualified person as defined in 30 CFR 75.151 or be in the process of being trained to be a qualified person but have yet to ''make such tests for a period of 6 months'' as required by 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew shall become qualified in order to continue on the surveying crew. If the surveying crew consists of only one person, they shall monitor for methane with two separate devices.

(n) Batteries contained in the surveying equipment shall be changed out or charged in the return airway outby the last open crosscut. Replacement batteries for the electronic surveying equipment shall be carried only in the electronic equipment carrying case spare battery compartment. Before each surveying shift, all batteries for the electronic surveying equipment shall be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using non-permissible electronic surveying equipment in the return airway outby the last open crosscut, the surveyor shall confirm by measurement or by inquiry of the person in charge of the section that the air quantity on the section, on that shift,

in the last open crosscut is at least the minimum quantity required by the mine's ventilation plan.

(p) Personnel engaged in the use of surveying equipment shall be properly trained to recognize the hazards and limitations associated with the use of surveying equipment in areas where methane could be present.

(q) All members of the surveying crew shall receive specific training on the terms and conditions of the PDO before using non-permissible electronic equipment in the return airway outby the last open crosscut. A record of the training shall be kept with the other training records.

(r) Within 60 days after the granted PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions of the PDO, a MSHA Certificate of Training (Form 5000–23) shall be completed and shall include comments indicating it was surveyor training.

(s) The operator shall replace or retire from service any electronic surveying instrument acquired prior to December 31, 2004, within 1 year of the PDO becoming final. Within 3 years of the date the PDO becomes final, the operator shall replace or retire from service any theodolite acquired more than 5 years prior to the date the granted PDO became final and any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date the PDO became final. After 5 years, the operator shall maintain a cycle of purchasing new electronic surveying equipment so that theodolites shall be no older than 5 years from date of manufacture and total stations and other electronic surveying equipment shall be no older than 10 years from date of manufacture.

(t) The operator is responsible for ensuring that all surveying contractors hired by the operator use electronic equipment in accordance with the requirements of the PDO. The conditions of use specified in the PDO shall apply to all non-permissible electronic surveying equipment used in the return airway outby the last open crosscut regardless of whether the equipment is used by the operator or by an independent contractor.

(u) Non-permissible surveying equipment may be used when production is occurring, subject to these conditions:

(1) On a mechanized mining unit (MMU) where production is occurring, non-permissible electronic surveying equipment shall not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as ''baloney skins'') or curtains.

(2) Production may continue while non-permissible electronic surveying equipment is used if the surveying equipment is used in a separate split of air from where production is occurring.

(3) Non-permissible surveying equipment shall not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

(4) If while surveying a surveyor must disrupt ventilation, the surveyor shall cease surveying and communicate to the section foreman that ventilation must be disrupted. Production shall stop while ventilation is disrupted. Ventilation controls shall be reestablished immediately after the disruption is no longer necessary. Production shall only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans and other applicable laws, standards, or regulations.

(5) Any disruption in ventilation shall be recorded in the logbook required by the PDO. The logbook shall include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption, the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

(6) All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations shall receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. Such training shall be completed before any non-permissible surveying equipment can be used while production is occurring. The operator shall keep a record of such training and provide it to MSHA upon request.

(7) The operator shall provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide it to MSHA upon request.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2023–06071 Filed 3–23–23; 8:45 am]

BILLING CODE 4520–43–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 27, April 3, 10, 17, 24, May 1, 2023. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of March 27, 2023

Tuesday, March 28, 2023

10:00 a.m. Briefing on the Annual Threat Environment (Closed Ex. 1)

Thursday, March 30, 2023

9:00 a.m. Briefing on Nuclear Regulatory Research Program (Public Meeting) (Contact: Nicholas Difrancesco: 301–415–1115)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of April 3, 2023—Tentative

There are no meetings scheduled for the week of April 3, 2023.

Week of April 10, 2023—Tentative

There are no meetings scheduled for the week of April 10, 2023.

Week of April 17, 2023—Tentative

Thursday, April 20, 2023

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and the Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Kellee Jamerson: 301–415–7408)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of April 24, 2023—Tentative

There are no meetings scheduled for the week of April 24, 2023.

Week of May 1, 2023—Tentative

There are no meetings scheduled for the week of May 1, 2023.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 22, 2023.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2023–06266 Filed 3–22–23; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–26–ISFSI–MLR; ASLBP No. 23–979–01–ISFSI–MLR–BD01]

Pacific Gas and Electric Company; Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Pacific Gas and Electric Company (Diablo Canyon Independent Spent Fuel Storage Installation)

This proceeding involves an application to authorize Pacific Gas and Electric Company to continue to store spent fuel in the Diablo Canyon Independent Spent Fuel Storage Installation for an additional 40 years beyond the current license expiration date of March 22, 2024. In response to a notice published in the **Federal Register** announcing the opportunity to request a hearing, *see* 88 FR 1431 (Jan. 10, 2023), a hearing request on behalf of San Luis Obispo Mothers for Peace was submitted by email on March 13, 2023, and again through E-Filing on March 14, 2023.

The Board is comprised of the following Administrative Judges:

E. Roy Hawkens, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Rockville, Maryland.

Dated: March 20, 2023.

Paul S. Ryerson,

Associate Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2023–06077 Filed 3–23–23; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collections.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collections of information.

DATES: Comments must be received on or before April 24, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collections should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find these particular information collections by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

A copy of the request will be posted on PBGC's website at *https://www.pbgc.gov/prac/laws-and-regulation/federal-register-notices-open-for-comment.* It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 445 12th Street SW, Washington, DC 20024–2101, or, calling 202–229–4040 during normal business hours. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101; 202–229–3839. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: OMB has approved and issued control numbers for seven collections of information in PBGC's regulations relating to multiemployer plans. These collections of information are described below. OMB approvals for these collections of information expire June 30, 2023. On January 5, 2023, PBGC published in the **Federal Register** (at 88 FR 888) a notice informing the public of its intent to request an extension of these collections of information. No comments were received. PBGC is requesting that OMB extend its approval of these collections

of information for 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB Control Number 1212–0023)

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most one plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is 4 hours and $10,000.

2. Variances for Sale of Assets (29 CFR Part 4204) (OMB Control Number 1212–0021)

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances.

PBGC estimates that each year, 100 employers submit, and 100 plans respond to, variance requests under the regulation, and 1 employer submits a variance request to PBGC. The estimated annual burden of the collection of information is 1,050 hours and $501,000.

3. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB Control Number 1212–0044)

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits a plan to adopt its own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year at most 1 employer submits and 1 plan responds to an application for abatement of complete withdrawal liability, and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.5 hours and $1,000.

4. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB Control Number 1212–0039)

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits a plan to adopt its own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year at most 1 employer submits and 1 plan responds to an application for abatement of partial withdrawal liability, and no plan sponsors request approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 0.50 hours and $1,000.

5. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR part 4211) (OMB Control Number 1212–0035)

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how the amendment will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 10 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 200 hours and $200,000.

6. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB Control Number 1212–0034)

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a ''mass withdrawal.'' Section 4209(c) of ERISA deals with an employer's liability for de minimis amounts if the employer withdraws in a ''substantial withdrawal.''

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that there are 6 mass withdrawals and 3 substantial withdrawals per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a

mass withdrawal, there are 2 assessments and 2 certifications that deal with 2 different types of liability. For a substantial withdrawal, there is 1 assessment and 1 certification (combined with the withdrawal notice to PBGC).) The estimated annual burden of the collection of information is 15 hours and $49,500.

7. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB Control Number 1212–0031)

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting PBGC's approval of an amendment. PBGC needs the required information to identify the plan; evaluate the risk of loss, if any, posed by the plan amendment; and determine whether to approve or disapprove the amendment.

PBGC estimates that at most 1 plan sponsor submits an approval request per year under this regulation. The estimated annual burden of the collection of information is 2 hours and $7,000 dollars.

Issued in Washington, DC.

Hilary Duke,

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

[FR Doc. 2023–06073 Filed 3–23–23; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–122 and CP2023–125]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 28, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–122 and CP2023–125; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 16 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 20, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* March 28, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–06119 Filed 3–23–23; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 20, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 16 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–122 and CP2023–125.

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–06065 Filed 3–23–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: March 24, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 7, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 15 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2023–118 and CP2023–121.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–06074 Filed 3–23–23; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34862; File No. 812–15332]

Ares Strategic Income Fund and Ares Capital Management LLC

March 20, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c), and 18(i), and section 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies that have elected to be regulated as business development companies (''BDCs'') to issue multiple classes of shares with varying sales loads and asset-based service and/or distribution fees.

APPLICANTS: Ares Strategic Income Fund and Ares Capital Management LLC.

FILING DATES: The application was filed on April 29, 2022 and amended on September 20, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on April 14, 2023, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Joshua M. Bloomstein, *jbloomstein@aresmgmt.com.*

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated September 20, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06060 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97168; File No. SR–PEARL–2023–13]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC To Amend the MIAX Pearl Options Fee Schedule

March 20, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 9, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Section 1)a) Exchange Rebates/Fees—Add/Remove

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Tiered Rebates/Fees of the Exchange's Fee Schedule to adopt an additional alternative volume criteria for the Tier 2 rebates/fees for MIAX Pearl Market Makers. The Exchange originally filed this proposal on March 1, 2023 (SR–PEARL–2023–12). On March 9, 2023, the Exchange withdrew SR–PEARL–2023–12 and resubmitted this proposal.

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member [3] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts) [4] (as the numerator) expressed as a percentage of (divided by) TCV [5] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[6] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX Pearl System,[7] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO [8] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program [9] (''Penny Classes'') than for order executions in standard option classes which are not in the Penny Interval Program (''Non-Penny Classes''), where Members are assessed higher transaction fees and receive higher rebates.

Alternative Volume Criteria Threshold Change in Tier 2

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees table set forth in Section 1)a) of the Fee Schedule for MIAX Pearl Market Maker origins, to adopt a new alternative Volume Criteria in Tier 2. Currently, the volume criteria for Pearl Market Makers to qualify for Tier 2 fees/rebates is above 0.20% to 0.50%. The Exchange currently provides an alternative volume criteria in Tier 2 which is based upon the total monthly volume executed by a MIAX Pearl Market Maker collectively in SPY/QQQ/IWM options on the Exchange, expressed as a percentage of total consolidated national volume in SPY/QQQ/IWM options.[10] Pursuant to this alternative volume criteria, a Market Maker is able to reach the Tier 2 threshold if the Market Maker's total executed monthly volume, not including Excluded Contracts, in SPY/QQQ/IWM options on MIAX Pearl is above 0.55% of total consolidated national monthly volume in SPY/QQQ/IWM options. For this calculation, volume that is from resting liquidity (Maker) and taking liquidity (Taker) in SPY/QQQ/IWM options is counted towards the alternative volume criteria, and the 0.55% threshold does not have to be reached individually in each of the three symbols. A Market Maker is able to qualify for Tier 2 rebates and fees, which will then be applicable to all volume executed by the MIAX Pearl Market Maker on MIAX Pearl. Therefore, the two different volume criteria available for Tier 2 are based upon either: (a) the total monthly volume executed by the Market Maker in all options classes on MIAX Pearl, not including Excluded Contracts, (as the numerator), expressed as a percentage of (divided by) TCV (as the denominator); or (b) the total monthly volume executed by the MIAX Pearl Market Maker collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, (as the numerator), expressed as a percentage of (divided by) SPY/QQQ/IWM TCV [11] (as

[3] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[5] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[6] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the following process. A MIAX PEARL Market Maker appoints an EEM and an EEM appoints a MIAX PEARL Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* the Definitions Section of the Fee Schedule.

[7] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[8] ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR–PEARL–2020–06).

[10] *See* Fee Schedule, Section 1)a), explanatory paragraph below the tables and footnotes. *See also* Securities Exchange Act Release Nos. 84592 (November 14, 2018), 83 FR 58646 (November 20, 2018) (SR–PEARL–2018–23); 90906 (January 21, 2021), 86 FR 5296 (January 19, 2021) (SR–PEARL–2020–38).

[11] ''SPY/QQQ/IWM TCV'' means total consolidated volume in SPY, QQQ, and IWM calculated as the total national volume in SPY, QQQ, and IWM for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely

Continued

the denominator). Once either volume criteria threshold in Tier 2 is reached by the Market Maker, the Tier 2 per contract rebates and fees apply to all volume in all options classes executed by that MIAX Pearl Market Maker on MIAX Pearl.

The Exchange now proposes to adopt an additional alternative volume criteria in Tier 2 to introduce cross-asset volume based requirements that require MIAX Pearl Market Makers to satisfy the requirements of Tier 2 of the ''Add Volume Tiers'' table in the MIAX Pearl Equities fee schedule,[12] and also the requirements of Tier 2 of the ''Midpoint Peg Order Adding Liquidity at the Midpoint Volume Tiers'' table in the MIAX Pearl Equities fee schedule.[13] A Midpoint Peg Order [14] on the MIAX Pearl Equities Exchange is a non-displayed limit order that is assigned a working price pegged to the midpoint of the PBBO.[15]

With the proposed change, the three different volume criteria available for Tier 2 are based upon either: (i) the total monthly volume executed by the Market Maker in all options classes on MIAX Pearl, not including Excluded Contracts, (as the numerator), expressed as a percentage of (divided by) TCV (as the denominator); or (ii) the total monthly volume executed by the MIAX Pearl Market Maker collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, (as the numerator), expressed as a percentage of (divided by) SPY/QQQ/IWM TCV (as the denominator); or (iii) if the Market Maker is in Tier 2 of the Add Volume Tiers table by having an ADAV [16] greater than or equal to 0.10% of Total Consolidated Volume on the MIAX Pearl Equities Exchange; and is also in Tier 2 of the Midpoint Peg Order [17] Adding Liquidity at Midpoint Volume Tier table by having a Midpoint ADAV greater than or equal to 1,000,000 shares on the MIAX Pearl Equities Exchange. Once any one of the aforementioned three volume criteria threshold in Tier 2 is reached by the Market Maker, the Tier 2 per contract rebates and fees apply to all volume in all options classes executed by that MIAX Pearl Market Maker.

The purpose of this proposed change is for business and competitive reasons. At least one other exchange with both options and equities trading platforms offers a similar cross-asset volume criteria in a similar tier based structure.[18] The Exchange's proposal adds a third volume criteria that Market Makers may satisfy in order to achieve Tier 2 fees/rebates, *i.e.,* satisfying each of the cross-asset volume criteria requirements for that month. The Exchange believes that with the proposed change, the Exchange will attract additional equities order flow from Market Makers, which should benefit all Exchange participants by providing more trading opportunities and tighter spreads. The Exchange cannot predict with certainty how many Market Makers will satisfy the alternative volume criteria in Tier 2.

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [19] in general, and furthers the objectives of Section 6(b)(4) of the Act,[20] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[21] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

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.'' [22]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, as of February 23, 2023, no single exchange has more than approximately 12–13% equity options market share for the month of February 2023.[23] Therefore, no exchange possesses significant pricing power. More specifically, as of February 23, 2023, the Exchange had a market share of approximately 6.83% of executed volume of multiply-listed equity options for the month of February 2023.[24]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to

in SPY, QQQ, or IWM options). *See* the Definitions Section of the Fee Schedule.

[12] *See* MIAX Pearl Equities Fee Schedule, Section 1)c) Add Volume Tiers table, on its public website (available online at *https://www.miaxoptions.com/fees/pearl-equities*).

[13] *See* MIAX Pearl Equities Fee Schedule, Section 1)e) Midpoint Peg Order Adding Liquidity at Midpoint Volume Tiers table, on its public website (available online at *https://www.miaxoptions.com/fees/pearl-equities*).

[14] *See* Exchange Rule 2614(a)(3).

[15] With respect to the trading of equity securities, the term ''Protected NBB'' or ''PBB'' shall mean the national best bid that is a Protected Quotation, the term ''Protected NBO'' or ''PBO'' shall mean the national best offer that is a Protected Quotation, and the term ''Protected NBBO'' or ''PBBO'' shall mean the national best bid and offer that is a Protected Quotation. *See* Exchange Rule 1901.

[16] ''ADAV'' means average daily added volume calculated as the number of shares added per day and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. *See* Definitions, in the MIAX Pearl Equities Fee Schedule, on its public website (available online at *https://www.miaxoptions.com/fees/pearl-equities*).

[17] A Midpoint Peg Order is a non-displayed Limit Order that is assigned a working price pegged to the midpoint of the PBBO. A Midpoint Peg Order receives a new timestamp each time its working price changes in response to changes in the midpoint of the PBBO. *See* Exchange Rule 2614(a)(3).

[18] *See* NYSE Arca Options Fee schedule, Market Maker Penny and SPY Posting Credit Tiers, Super Tier II, which provides a credit of $0.42 when a Firm has at least 0.10% of TCADV from Market Maker posted interest in all issues, plus ETP Holder and Market Maker posted volume in Tape B Securities (''Tape B Adding ADV'') that is equal to at least 1.50% of US Tape B consolidated average daily volume (''CADV'') for the billing month executed on NYSE Arca Equity Market, available at *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(4).

[21] 15 U.S.C. 78f(b)(1) and (b)(5).

[22] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[23] *See* MIAX's ''The market at a glance/MTD AVERAGE,'' available at *https://www.miaxoptions.com/* (Data as of 2/1/2023–2/23/2023).

[24] *See id.*

be effective March 1, 2019).[25] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that its March 1, 2019, fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX Pearl's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes that its proposal represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Market Makers, in that all Market Makers have the opportunity to compete for and achieve the proposed alternative volume criteria of Tier 2, and the Tier 2 fees/rebates will apply uniformly to all Market Makers that achieve Tier 2. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Market Maker achieving the alternative volume criteria, the proposed alternative volume criteria is available for any Market Maker. To the extent a Member participates on the Exchange but not on MIAX Pearl Equities, the Exchange believes that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of its equities platform. Particularly, the Exchange believes that additional such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on MIAX Pearl Equities or not. Additionally, a Market Maker that is not a Member of MIAX Pearl Equities may still satisfy the current primary volume criteria or the current alternative volume criteria, which aren't changing under this proposal, to be eligible for Tier 2 fees/rebates.

Additionally, the Exchange believes its proposal represents a reasonable attempt to incentivize market participants to increase the number and variety of orders sent to the Exchange for execution. Specifically, the Exchange proposes to introduce two new volume-based requirements that require MIAX Pearl Market Makers to satisfy Tier 2 criteria on the MIAX Pearl Equities Exchange for Add Volume and Midpoint Peg Order Adding Liquidity at Midpoint Volume. The Exchange believes that the new alternative volume criteria will continue to incentivize participation in greater volume from cross-asset activity, which would improve the overall quality of the Exchange's marketplace to the benefit of all market participants, both on the MIAX Pearl Options Exchange and the MIAX Pearl Equities Exchange.

The Exchange also believes that its new proposed qualifications for the Tier 2 alternative volume criteria for MIAX Pearl Market Makers is equitable and not unfairly discriminatory because the Exchange will uniformly assess the rebates and fees for any Market Makers qualifying for Tier 2. Finally, encouraging Market Makers to add greater liquidity benefits all market participants, both on the MIAX Pearl Options Exchange, and the MIAX Pearl Equities Exchange, in the quality of order interaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that its proposal will impose any burden on intra-market competition as the Exchange believes that its proposal will not place any market participant at a competitive disadvantage as Market Makers may satisfy any of the volume criteria requirements to be eligible for the Tier 2 fees/rebates. The Exchange believes that the proposed change should continue to encourage the provision of liquidity in options that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all participants who will be able to compete for such opportunities. Additionally, as discussed, the proposed changes are ultimately aimed at attracting greater order flow to the Exchange, which benefits all market participants by providing more trading opportunities.

The Exchange does not believe that its proposal will impose any burden on inter-market competition and 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.

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 12–13% of the market share of executed volume of multiply-listed equity and ETF options trades as of February 23, 2023, for the month of February 2023.[26] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of February 23, 2023, the Exchange had a market share of approximately 6.83% of executed volume of multiply-listed equity and ETF options for the month of February 2023.[27] In such an environment, the Exchange must continually adjust its fees and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and Tiers 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. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees and Tiers in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[28] and Rule 19b–4(f)(2)[29] 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

[25] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

[26] *See supra* note 23.

[27] *See id.*

[28] 15 U.S.C. 78s(b)(3)(A)(ii).

[29] 17 CFR 240.19b–4(f)(2).

takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2023–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2023–13. 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–PEARL–2023–13 and should be submitted on or before April 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06056 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34861; File No. 812–15329]

AGTB Fund Manager, LLC and AG Twin Brook Capital Income Fund

March 20, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) and section 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies that have elected to be regulated as business development companies (''BDCs'') to issue multiple classes of shares with varying sales loads and asset-based service and/or distribution fees.

APPLICANTS: AGTB Fund Manager, LLC and AG Twin Brook Capital Income Fund.

FILING DATES: The application was filed on April 29, 2022 and amended on June 2, 2022, June 22, 2022, September 29, 2022, and March 14, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on April 14, 2023, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Jenny B. Neslin, *jneslin@angelogordon.com.*

FOR FURTHER INFORMATION CONTACT: Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated March 14, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06062 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97169; File No. SR–ICEEU–2023–004]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures

March 20, 2023.

I. Introduction

On January 20, 2023, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4,[2] a proposed rule change to amend its Counterparty Credit Risk Policy (the ''CC Risk Policy'') and Counterparty Credit Risk Procedures (the ''CC Risk Procedures''). The proposed rule change was published for comment in the **Federal Register** on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

February 7, 2023.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

i. Background

ICE Clear Europe is registered with the Commission as a clearing agency for the purpose of clearing security-based swaps. In its role as a clearing agency for clearing security-based swaps, ICE Clear Europe provides services to its Clearing Members and receives banking, investment, custody, and other financial services from its Financial Service Providers (''FSPs'').[4] In providing services to Clearing Members and receiving services from FSPs, ICE Clear Europe is exposed to counterparty risk. Counterparty risk is the risk that ICE Clear Europe suffers financial losses if a Clearing Member or FSP defaults on its obligations to ICE Clear Europe.

In 2021, ICE Clear Europe adopted the CC Risk Policy and CC Risk Procedures.[5] The CC Risk Policy and CC Risk Procedures describe how ICE Clear Europe identifies, monitors, and mitigates counterparty risk. In addition to the CC Risk Policy and CC Risk Procedures, ICE Clear Europe has also established a Counterparty Credit Risk Parameters document (the ''CC Risk Parameters'').[6]

The proposed rule change would amend the CC Risk Policy and the CC Risk Procedures to make a number of improvements to the versions adopted in 2021. As described more fully below, the proposed rule change would: (i) apply both documents to the risks arising from Links;[7] (ii) revise credit eligibility criteria; (iii) clarify how frequently ICE Clear Europe reviews counterparties; (iv) add a new defined term for Systemically Important Institution; (v) consider the risks arising from cross-exposures and off-boarding; (vi) specify additional mitigating actions ICE Clear Europe may take in certain circumstances; and (vii) revise description of ICE Clear Europe's Counterparty Rating System.[8]

ii. Links

Currently, both the CC Risk Policy and the CC Risk Procedures define counterparty credit risk in relation to Clearing Members and FSPs. Specifically, both documents define counterparty credit risk as (i) the risk that a Clearing Member misses its next payment to ICE Clear Europe, leaving ICE Clear Europe under-collateralized and therefore increasing the risk of using the Guaranty Fund contributions of other Clearing Members and ICE Clear Europe to manage a potential default of that Clearing Member and (ii) the risk that a FSP defaults without returning cash to ICE Clear Europe, leaving ICE Clear Europe with a loss on its investments or expected return of cash. The proposed rule change would expand the definition of counterparty credit risk, in both the CC Risk Policy and the CC Risk Procedures, to include the risk that a Link defaults, leaving ICE Clear Europe to fund material contractual or operational arrangements associated with that Link.

In addition to taking into account the risks arising from Links, the proposed rule change would revise the overall objective of ICE Clear Europe's counterparty credit risk management to include minimizing the risk arising from a Link defaulting. The current CC Risk Policy provides that the objective of ICE Clear Europe's counterparty credit risk management is minimizing the risk of ICE Clear Europe being materially under-collateralized as a result of a CM defaulting, or realizing a material loss due to an FSP defaulting. The proposed change would add Links to this objective, such that ICE Clear Europe's objective would include minimizing the risk of loss due to a Link defaulting.

While revising the objective of ICE Clear Europe's counterparty credit risk management to include Links, the proposed rule change also would revise how ICE Clear Europe achieves this objective to include Links. Currently, ICE Clear Europe minimizes counterparty credit risk through the following actions: (i) setting and monitoring credit criteria for counterparties; (ii) establishing a credit score for each counterparty that represents each counterparty's credit risk and classifying each counterparty in relation to the risk it poses; (iii) taking mitigating actions to reduce ICE Clear Europe's exposure; (iv) performing reviews of counterparties; and (v) setting and monitoring exposure limits for counterparties. The proposed rule change would add to this list identifying, monitoring, and managing risks from Links. Thus, in addition to taking the actions set forth above to minimize counterparty risk, under the proposed rule change, ICE Clear Europe also would identify, monitor, and mange risks from Links.

Similarly, the proposed rule change would add to ICE Clear Europe's mitigating actions certain actions specific to Links. The CC Risk Policy lists certain mitigating actions that ICE Clear Europe may take to reduce its exposure to a counterparty. These actions include, among other things, requiring a Clearing Member to reduce its positions and changing ICE Clear Europe's usage of a FSP. The proposed rule change would add to this list of mitigating actions changing ICE Clear Europe's usage of a Link, which ICE Clear Europe could undertake to reduce its exposure to a Link.

In addition to revising the definition of counterparty risk, the counterparty risk management objective, and the list of mitigating actions, the proposed rule change also would revise how ICE Clear Europe monitors counterparties to account for Links. As mentioned above, currently ICE Clear Europe uses its Counterparty Rating System to calculate a credit score that represents a counterparty's risk, in terms of the overall credit quality of the counterparty. Under the proposed rule change, ICE Clear Europe would continue to use its Counterparty Rating System to calculate credit scores. The proposed rule change would add language to the CC Risk Policy and CC Risk Parameters, however, to note that ICE Clear Europe may use its Counterparty Rating System or related credit criteria to represent the credit quality of counterparties. The new

[3] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures, Exchange Act Release No. 96787 (Feb. 1, 2023); 88 FR 8018 (Feb. 7, 2023) (SR–ICEEU–2023–004) (''Notice'').

[4] Capitalized terms not otherwise defined herein have the meanings assigned to them in the CC Risk Policy and CC Risk Procedures.

[5] *See* Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Adoption of the Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures, Exchange Act Release No. 93880 (Dec. 30, 2021), 87 FR 513 (Jan. 5, 2022) (SR–ICEEU–2021–015) (''2021 Approval Order'').

[6] ICE Clear Europe included the CC Risk Parameters as a confidential Exhibit 3 to this filing and the 2021 Approval Order. The CC Risk Parameters contain details relevant to the processes set out in the CC Risk Policy and CC Risk Procedures. For example, the CC Risk Parameters contain the credit eligibility criteria that ICE Clear Europe uses to assess prospective counterparties.

[7] The proposed rule change would adopt the definition of ''Link'' as found in Rule 17Ad–22(a)(8). Rule 17Ad–22(a)(8) defines a ''Link'' as ''a set of contractual and operational arrangements between two or more clearing agencies, financial market utilities, or trading markets that connect them directly or indirectly for the purposes of participating in settlement, cross margining, expanding their services to additional instruments or participants, or for any other purposes material to their business.'' 17 CFR 240.17Ad–22(a)(8).

[8] The Counterparty Rating System is the system that ICE Clear Europe uses to model and determine a counterparty's risk. ICE Clear Europe uses the Counterparty Rating System to calculate a credit score, and this credit score represents a counterparty's risk, in terms of its overall credit quality.

reference to related credit criteria captures the fact that ICE Clear Europe may need to consider additional credit criteria to fully consider the risks of Links. This additional credit criteria could include, for example, the nature of a Link's operational arrangement with ICE Clear Europe. Similarly, the proposed rule change would add language to the Counterparty Credit Risk Procedures to note that, in addition to monitoring counterparties through credit scores, ICE Clear Europe may monitor counterparties through public news sources. Public news sources could provide insight into events affecting the financial standing of Links.

iii. Credit Eligibility Criteria

ICE Clear Europe assesses prospective counterparties against certain credit eligibility criteria. The criteria that ICE Clear Europe uses for this assessment are set out in the CC Risk Parameters. Overall, ICE Clear Europe uses this assessment against the credit eligibility criteria to assess the financial stability of Clearing Members and FSPs.[9]

The current CC Risk Procedures note that, as part of this assessment, FSPs must be legal entities in approved jurisdictions and comply with the credit eligibility criteria and Unsecured Credit Limits found in the CC Risk Parameters. The proposed rule change would revise this language to state that in addition to complying with the credit eligibility criteria and Unsecured Credit Limits found in CC Risk Parameters, ICE Clear Europe screens FSPs for Know-Your-Customer (''KYC'') and Anti-Money Laundering (''AML'') purposes to confirm they are not registered in countries subject to monitoring by the Financial Action Task Force [10] and to confirm that they have appropriate KYC processes. ICE Clear Europe is making this change to codify in the CC Risk Procedures its current practice of screening FSPs with respect to KYC and AML requirements.[11]

Moreover, the proposed rule change would add language to note that agreements with FSPs are subject to review by ICE Clear Europe's legal team, and this review includes consideration of legal risk associated with the governing law of the relevant agreement and the jurisdiction of the FSP. This new language would replace the statement, found in the current CC Risk Procedures, that FSPs must be legal entities in approved jurisdictions. Rather than only requiring FSPs be legal entities in approved jurisdictions, in practice ICE Clear Europe's legal team analyzes each agreement ICE Clear Europe has with its FSPs and considers the legal risk arising from the governing law of the agreement and the jurisdiction of the FSP. Thus, the new language would better describe ICE Clear Europe's current practice and codify this practice in the CC Risk Procedures.[12]

Finally, the proposed rule change would note that all of the credit eligibility criteria, which ICE Clear Europe uses in assessing prospective counterparties, would be reviewed periodically. This change to the CC Risk Procedures would codify a periodic review requirement that is currently set out the CC Risk Parameters. That document sets out the frequency of reviews of the credit eligibility criteria as well as the ICE Clear Europe personnel responsible for conducting and approving such reviews. Specifically, the CC Risk Parameters contain a list of various minimum credit ratings that counterparties should meet, and provide that this criteria will be reviewed annually by ICE Clear Europe's Executive Risk Committee.

iv. Frequency of Reviews

The proposed rule change would remove certain duplicative requirements from the CC Risk Procedures. As part of its monitoring of counterparty risk, ICE Clear Europe reviews prospective and current counterparties. These reviews consist of, among other actions, calculating credit scores for each counterparty and reviewing limits on ICE Clear Europe's financial exposure to a counterparty.[13]

The current CC Risk Procedures contain duplicative requirements concerning credit scores, continuous monitoring, the watch list, and exposure limits. The current CC Risk Procedures provide, in Section 2.3.1, that ICE Clear Europe uses its Counterparty Rating System to calculate credit scores for each counterparty on each day. The current CC Risk Procedures provide, in Section 2.4, that continuous monitoring is conducted daily and the Watch List and exposure limits are reviewed weekly, monthly and quarterly.

With respect to Section 2.3.1, the proposed rule change would delete ''on each day'' and replace it with ''periodically.'' As amended, Section 2.3.1 would therefore state that ICE Clear Europe uses its Counterparty Rating System to calculate credit scores for each Counterparty periodically as set out in the Parameters. With respect to Section 2.4, the proposed rule change would delete ''weekly.'' As amended, Section 2.4 would state that continuous monitoring is conducted daily and the Watch List and exposure limits are reviewed monthly and quarterly.

With respect to both changes, ICE Clear Europe maintains that it is not decreasing the frequency of its reviews.[14] Rather, ICE Clear Europe is amending Section 2.3.1 to rely instead on the general statement in Section 2.4 that continuous monitoring is conducted daily. Thus, Section 2.4 would control, and ICE Clear Europe would still calculate credit scores on a daily basis, despite replacing ''on each day'' with ''periodically'' in Section 2.3.1. Moreover, ICE Clear Europe maintains that under amended Section 2.4, it would still conduct continuous monitoring and risk reviews on a daily basis.[15] ICE Clear Europe is deleting ''weekly'' because it maintains that it would conduct the risk reviews daily, rather than weekly.

Finally, the CC Risk Procedures currently state that ICE Clear Europe's findings and recommendations from its reviews of counterparties are approved based on the CC Risk Parameters. The proposed rule change would amend this statement in the CC Risk Procedures to provide that the review frequency and criteria, in addition to ICE Clear Europe's findings and recommendations from its reviews of counterparties, are approved based on the CC Risk Parameters. This change would better align the CC Risk Procedures with the CC Risk Parameters. Specifically, the CC Risk Parameters make certain ICE Clear Europe personnel responsible for reviewing and approving findings and recommendations from risk reviews, and sets out the frequency and criteria for the risk reviews.

v. Systemically Important Institution

As part of mitigating its counterparty credit risk, ICE Clear Europe sets and monitors limits on its financial exposures to its counterparties. These exposure limits effectively cap ICE Clear Europe's risk of loss arising from a particular counterparty and therefore act as an overall mitigation of counterparty risk.[16]

As explained in the current CC Risk Procedures, ICE Clear Europe sets an exposure limit for each Clearing

[9] *See* 2021 Approval Order, 87 FR at 514.

[10] The Financial Action Task Force is an intergovernmental organization founded in 1989 on the initiative of the G7. It develops policies and international standards to prevent money laundering and terrorist financing. *See https://www.fatf-gafi.org/en/home.html.*

[11] Notice, 88 FR at 8018.

[12] Notice, 88 FR at 8018.

[13] *See* 2021 Approval Order, 87 FR at 514.

[14] Notice, 88 FR at 8019.

[15] Notice, 88 FR at 8019.

[16] *See* 2021 Approval Order, 87 FR at 514.

Member as a percentage of that Clearing Member's capital. As further explained in the current CC Risk Procedures, the capital that ICE Clear Europe considers for this purpose can include the balance sheet of a Clearing Member's parent company. ICE Clear Europe would consider the balance sheet of a Clearing Member's parent company if: (i) it considers the Clearing Member to be an integral part of a large systemically important institution headquartered in a robust legal jurisdiction; or (ii) it has a formal and enforceable recourse to the Clearing Member's parent company via a guarantee or equivalent undertaking. The proposed rule change would amend the first consideration, so that ICE Clear Europe would consider the balance sheet of a Clearing Member's parent company if it considers the Clearing Member to be an integral part of a large group that is a Systemically Important Institution. The proposed rule change would define a Systemically Important Institution as an institution with assets greater than 200 billion Euros that is treated as a Globally Systemically Important Institution by the European Banking Authority. These changes are aimed at objectively defining when ICE Clear Europe should consider the balance sheet of a parent company in eligible capital for the purposes of the exposure limit.[17]

vi. Cross-Exposures and Off-Boarding

As discussed above, ICE Clear Europe monitors counterparties daily. This monitoring includes a number of items, such as daily credit scores and reviews of public news.[18] The proposed rule change would expand the CC Risk Procedures to include monitoring for cross-exposures, which are exposures that a counterparty may have to its affiliates that are also ICE Clear Europe counterparties, and the risks that could arise when off-boarding counterparties.

Specifically, the proposed rule change would add language to Section 2.4 to note that ICE Clear Europe's monitoring of counterparty credit risk includes monitoring of cross-exposures among a Clearing Member and its affiliates. The proposed rule change also would add language to Section 3.1.1 of the CC Risk Procedures stating that ICE Clear Europe monitors at least monthly credit Cross-Exposures among counterparties and their affiliates in all their capacities as counterparties to ICE Clear Europe.

The proposed rule change also would expand the CC Risk Procedures to consider the potential risks to ICE Clear Europe that could arise when it terminates its relationship with a counterparty. These risks could include, for example, open contractual obligations or money owed to ICE Clear Europe. The proposed rule change would add language to Section 2.1 of the CC Risk Procedures stating that ICE Clear Europe ensures all counterparty risks are eliminated prior to off-boarding counterparties.

vii. Mitigating Actions

In addition to assessing and monitoring counterparties, ICE Clear Europe also has the authority to take actions with respect to counterparties to mitigate risks presented by those counterparties.[19] For example, ICE Clear Europe may subject a counterparty to additional monitoring or reduce its usage of an FSP. ICE Clear Europe may also add counterparties to the Watch List, which is a list of counterparties that ICE Clear Europe subjects to enhanced monitoring and mitigating action if necessary. The proposed rule change would amend the CC Risk Procedures to note two additional mitigating actions that ICE Clear Europe could take against counterparties in certain circumstances.

First, the proposed rule change would add a statement to Section 2.3.2 of the CC Risk Procedures that Clearing Members are added automatically to the Watch List if they reach the Watch List Criteria. Specifically, Clearing Members whose credit scores meet certain thresholds indicating financial weakness are automatically added to the Watch List. This criteria is set out in the CC Risk Parameters.

Second, the proposed rule change would add language to Section 2.3.1 to note that submissions of quarterly financial statements by counterparties later than the days mandated by ICE Clear Europe's Rules will be communicated and escalated as set out in the CC Risk Parameters. The CC Risk Parameters require communication with counterparties and escalation to ICE Clear Europe's Head of Regulation and Compliance of late quarterly financial submissions.

viii. Counterparty Rating System

Finally, the proposed rule change would clarify the description of ICE Clear Europe's Counterparty Rating System found in the CC Risk Procedures. As mentioned above, the Counterparty Rating System is the system that ICE Clear Europe uses to model and determine a counterparty's credit risk. ICE Clear Europe uses the Counterparty Rating System to calculate a credit score, and this credit score represents a counterparty's credit risk.

The proposed rule change would delete a statement in the CC Risk Procedures that ICE Clear Europe's Counterparty Rating System may incorporate exposure information reflecting the risk of the Clearing Member's portfolio held with ICE Clear Europe. The proposed rule change is deleting this statement because ICE Clear Europe is revising its relevant risk model to consider the credit quality of a Clearing Member, rather than the risk associated with a Clearing Member's portfolio. ICE Clear Europe is making this change to better align the credit scores with the credit quality of Clearing Members.[20]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[21] For the reasons discussed below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[22] and Rules 17Ad–22(e)(3)(i) and (e)(20) thereunder.[23]

i. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.[24] Based on its review of the record, and for the reasons discussed below, the Commission believes the proposed changes to the CC Risk Policy and CC Risk Procedures are consistent with the promotion of the prompt and accurate clearance and settlement of securities transactions.

The Commission believes the proposed rule change overall would improve ICE Clear Europe's ability to manage counterparty risk using the CC Risk Policy and CC Risk Procedures. One way the proposed rule change would do that is by expanding the risks

[17] Notice, 88 FR at 8019.

[18] *See* 2021 Approval Order, 87 FR at 514.

[19] *See* 2021 Approval Order, 87 FR at 514.

[20] ICE Clear Europe manages the risk associated with a Clearing Member's portfolio through its margin and guaranty fund requirements.

[21] 15 U.S.C. 78s(b)(2)(C).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 17 CFR 240.17Ad–22(e)(3)(i) and (e)(20).

[24] 15 U.S.C. 78q–1(b)(3)(F).

that ICE Clear Europe considers when it is evaluating counterparties. For example, the proposed rule change would require that ICE Clear Europe consider the risks arising from Links and consider the risks associated with KYC and Anti-Money Laundering requirements when evaluating FSPs. Similarly, the proposed rule change would require that ICE Clear Europe consider the risks arising from its agreements with FSPs, specifically legal risk associated with the governing law of the agreement and the jurisdiction of the FSP, rather than only requiring FSPs be legal entities in approved jurisdictions. Finally, the proposed rule change would require ICE Clear Europe to monitor counterparties' cross exposures and the risks created when off-boarding a counterparty. The Commission believes all of these changes would expand ICE Clear Europe's counterparty risk monitoring and management to include risks that are not currently considered by ICE Clear Europe.

The Commission believes that the proposed rule change would improve ICE Clear Europe's counterparty risk management by establishing actions ICE Clear Europe would take to monitor and mitigate counterparties that present increased risk, such as requiring that ICE Clear Europe add a counterparty to the Watch List if it meets criteria set out in the CC Risk Parameters. Moreover, the proposed rule change would require ICE Clear Europe to internally escalate a counterparty's late submission of quarterly financial statements for further review and action. The Commission believes requiring these actions would help ensure that ICE Clear Europe takes immediate steps to monitor counterparties that present additional risk, either by meeting the criteria for inclusion on the Watch List or failing to timely file the required quarterly financial statements.

In addition to expanding the risks that ICE Clear Europe considers and establishing actions to take with respect to counterparties that present increased risk, the Commission believes the proposed rule change would improve ICE Clear Europe's counterparty risk management by clarifying the frequency of the various reviews conducted by ICE Clear Europe. Specifically, the proposed rule change would require that ICE Clear Europe review all credit eligibility criteria periodically and that review frequency and criteria be approved based on the CC Risk Parameters. Similarly, the proposed rule change would clarify that ICE Clear Europe calculates credit scores, looks at public news, conducts continuous monitoring, and completes risk reviews daily. The Commission believes these changes would help ensure ICE Clear Europe is using correct and current criteria to evaluate counterparties and reviewing and monitoring counterparties daily.

Finally, the Commission believes that two other changes discussed above would clarify important aspects of ICE Clear Europe's counterparty risk management. First, the Commission believes that adding a definition for Systemically Important Institution and no longer considering whether a Systemically Important Institution is in a robust legal jurisdiction would define objective criteria for considering the balance sheet of a Clearing Member's parent company in setting the exposure limit for that Clearing Member. Defining objective criteria with regard to the setting of exposure limits, in turn, would improve the consistency with which ICE Clear Europe applies such limits to control the potential loss that could arise out of a Clearing Member default. Second, the proposed rule change would clarify the description of ICE Clear Europe's Counterparty Rating System because it considers the credit quality of a Clearing Member, rather than the risk associated with a Clearing Member's portfolio. The proposed change would better align the measurement (credit ratings) with what it seeks to measure (a member's credit quality).

The Commission believes counterparty risk poses a risk to ICE Clear Europe's financial resources. For example, default by a Clearing Member could leave ICE Clear Europe under-collateralized, and default by an FSP could cause ICE Clear Europe to lose its investments or expected return of cash. Similarly, default by a Link could require ICE Clear Europe to fund material contractual or operational arrangements associated with that Link. The Commission believes that such losses could threaten ICE Clear Europe's ability to operate and clear and settle transactions. Thus, the Commission believes that effective management of ICE Clear Europe's counterparty risk could help ICE Clear Europe mitigate risks to the financial resources needed to continue clearing and settling transactions. The Commission therefore believes that, by improving ICE Clear Europe's ability to manage and mitigate counterparty risk, the proposed rule change would thereby promote the prompt and accurate clearance and settlement of securities transactions.

Therefore, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[25]

ii. Consistency With Rule 17Ad–22(e)(3)(i) Under the Act

Rule 17Ad–22(e)(3)(i) requires that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by ICE Clear Europe, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by ICE Clear Europe, that are subject to review on a specified periodic basis and approved by the board of directors annually.[26] As discussed above, the proposed rule change would make a number of improvements to the CC Risk Policy and the CC Risk Procedures. The Commission believes these improvements would enhance ICE Clear Europe's ability to comprehensively measure and manage the risks posed by counterparties.

With respect to measuring counterparty risks, the Commission believes that requiring ICE Clear Europe to consider KYC and AML requirements when reviewing prospective and existing FSPs would enable ICE Clear Europe to consider the risks arising from compliance with these requirements. The Commission further believes that requiring ICE Clear Europe to consider legal risk associated with the governing law of the agreement and the jurisdiction of the FSP would help ensure that ICE Clear Europe considers this associated risk. Similarly, the Commission believes that taking into consideration counterparties' cross-exposures, and the risks that arise when terminating a relationship with a counterparty, would enable ICE Clear Europe to identify and manage the risks posed by counterparties' affiliates and the risks that could arise when ICE Clear Europe terminates a counterparty.

With respect to managing counterparty risks, the Commission believes that requiring ICE Clear Europe to add counterparties to the Watch List when meeting certain criteria and to escalate late submission of quarterly financial statements for further review and action would help ICE Clear Europe to identify at-risk counterparties for

[25] 15 U.S.C. 78q–1(b)(3)(F).

[26] 17 CFR 240.17Ad–22(e)(3)(i).

further monitoring and mitigating action.

Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(3)(i).[27]

iii. Consistency With Rule 17Ad–22(e)(20) Under the Act

Rule 17Ad–22(e)(20) requires that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to identify, monitor, and manage risks related to any link ICE Clear Europe establishes with one or more other clearing agencies, financial market utilities, or trading markets.[28] As discussed above, the proposed rule change would amend the CC Risk Policy and the CC Risk Procedures to account for the risks arising from Links. Among other things, ICE Clear Europe would consider as a counterparty credit risk the risk that a Link defaults; take steps to minimize the risk of loss due to a Link defaulting; and identify, monitor, and mange risks arising from Links. The Commission believes these actions are reasonably designed to identify, monitor, and manage risks related to any Link that ICE Clear Europe may establish.

Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(20).[29]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act,[30] and Rules 17Ad–22(e)(3)(i) and (e)(20) thereunder.[31]

It is therefore ordered pursuant to Section 19(b)(2) of the Act [32] that the proposed rule change (SR–ICEEU–2023–004), be, and hereby is, approved.[33]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06057 Filed 3–23–23; 8:45 am]

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[27] 17 CFR 240.17Ad–22(e)(3)(i).

[28] 17 CFR 240.17Ad–22(e)(20).

[29] 17 CFR 240.17Ad–22(e)(20).

[30] 15 U.S.C. 78q–1(b)(3)(F).

[31] 17 CFR 240.17Ad–22(e)(3)(i) and (e)(20).

[32] 15 U.S.C. 78s(b)(2).

[33] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 88 FR 16687, March 20, 2023.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, March 22, 2023 at 10:00 a.m.

CHANGES IN THE MEETING: The following item will not be considered during the Open Meeting on Wednesday, March 22, 2023:

• The Commission will consider whether to adopt amendments to Form PF, the confidential reporting form for certain Commission registered investment advisers to private funds, to require current reporting for certain private fund advisers and revise certain reporting requirements.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

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

Dated: March 21, 2023.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–06208 Filed 3–22–23; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97160; File No. SR–BX–2023–007]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Equity 4, Rule 4120 To Establish Common Criteria and Procedures for Halting and Resuming Trading in Equity Securities in the Event of Regulatory or Operational Issues, Reorganize the Text of the Rule, and Make Conforming Changes to Related Rules

March 20, 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 8, 2023, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Equity 4, Rule 4120 to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues, reorganize the text of the rule, and make conforming changes to related rules. 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with adoption of an amended Nasdaq UTP Plan proposed by its participants (''Amended Nasdaq UTP Plan''),[3] the Exchange is amending Rule

[3] On February 11, 2021, the Nasdaq UTP Plan participants filed Amendment 50 to the Plan, to revise provisions governing regulatory and operational halts. *See* Letter from Robert Brooks, Chairman, UTP Operating Committee, Nasdaq UTP Plan, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 11, 2021. The Nasdaq UTP Plan subsequently filed two partial amendments to the 50th Amendment, on March 31, 2021 and on April 7, 2021. The SEC approved the amendments on May 28, 2021. *See* Securities Exchange Act Release No. 34–92071 (May 28, 2021), 86 FR 29846 (June 3, 2021) (S7–24–89). The Amended Nasdaq UTP Plan includes provisions requiring participant self-regulatory organizations (''SROs'') to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the Nasdaq UTP Plan, and the plan for consolidation of data for non-Nasdaq-listed securities, the Consolidated Tape System and Consolidated Quotations System (collectively, the ''CTA/CQS Plan''), include provisions similar to the changes proposed by the Exchange in this filing.

4120[4] to integrate several definitions and concepts from the Amended Nasdaq UTP Plan and to reorganize the rule in light of the Exchange's experience with applying the rule over many years as a national securities exchange.[5] The Exchange proposes to reorganize and amend Rule 4120, entitled Limit Up-Limit Down Plan and Trading Halts. The rule sets forth the Exchange's authority to halt trading under various circumstances. The Exchange is a participant of the transaction reporting plan governing Tape C Securities (''Nasdaq UTP Plan'').[6] As part of these changes, the Exchange will amend categories of regulatory and operational halts, improve the rule's clarity, adopt defined terms from the Amended Nasdaq UTP Plan and delete parts of the rule that are no longer needed. Last, the Exchange is updating cross references in other rules that are affected by the proposed changes.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events which might impact multiple exchanges are handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is discussed below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange that is responsible for a number of regulatory functions.[7] These include confirming that the security continues to meet the exchange's listing standards, monitoring trading in that security and taking action to halt trading in the security when necessary to protect investors and to ensure a fair and orderly market. While these core responsibilities remain with the primary listing venue, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security[8] or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,[9] and may only trade the security once the Primary Listing Market has cleared the security to resume trading.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market.

In addition to establishing common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues, the Exchange is deleting provisions that are no longer needed and reorganizing the rule to improve its clarity. The Exchange is also making a handful of non-substantive changes to rule text to improve its clarity. The Exchange will implement all of the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish an Equity Trader alert at least 30 business days prior to implementing the proposed changes.

Definitions

The Exchange proposes adding a definitions section as Rule 4120(a) to consolidate the various definitions that will be used in the Rule, some of which are taken from the Amended Nasdaq UTP Plan. The Exchange is adopting the following terms from the Amended Nasdaq UTP Plan: ''Operating Committee,'' ''Operational Halt,'' ''Primary Listing Market,'' ''Processor,''[10] ''Regulatory Halt,'' ''Regular Trading Hours,''[11] ''SIP Halt,'' and ''SIP Halt Resume Time.'' The Exchange is adopting a modified form of the term ''Extraordinary Market Activity'' from the Amended Nasdaq UTP Plan, as described below. The definitions of ''Derivative Securities Product,'' ''Pre-Market Session,'' and ''Required Value'' have been moved into the definitions section from elsewhere in the current rule without change.[12] The definition of ''Post-Market Session'' has been moved from elsewhere in the rule[13] with a minor change deleting the alternative closing time of 4:15 p.m. as all securities traded on the Exchange commence their closing cross process at 4:00 p.m.[14]

[4] References herein to Nasdaq BX, Inc. Rules in the 4000 Series shall mean Rules in Nasdaq BX Equity 4.

[5] The Exchange notes that its sister exchange, The Nasdaq Stock Market, LLC (''Nasdaq''), filed a similar proposed rule change with the Commission. *See* Securities Exchange Act Release No. 94370 (March 7, 2022), 87 FR 14071 (March 11, 2022); Securities Exchange Act Release No. 94838 (May 3, 2022), 87 FR 27683 (May 9, 2022). The Commission approved the proposed rule change on June 8, 2022. *See* Securities Exchange Act Release No. 95069 (June 8, 2022), 87 FR 36018 (June 14, 2022). Nasdaq PHLX LLC also filed a similar proposed rule change with the Commission. *See* Securities Exchange Act Release No. 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022). The Exchange's proposal provides the Exchange with less authority to declare halts in the event of regulatory or operational issues than under Nasdaq's proposal because the Exchange, unlike Nasdaq, is not a Primary Listing Market. Given the Exchange's status as a non-Primary Listing Market, certain definitions and concepts from the Amended Nasdaq UTP Plan, integrated in Nasdaq's proposal, are not included herein. The Exchange's proposal closely tracks the proposed rule change filed by Nasdaq PHLX.

[6] Each transaction reporting plan has a securities information processor (''SIP'') responsible for consolidation of information for the plan's securities, pursuant to Rule 603 of Regulation NMS. The transaction reporting plan for Nasdaq-listed securities is known as The Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis or the ''Nasdaq UTP Plan.'' Pursuant to the Nasdaq UTP Plan, the UTP SIP, which is Nasdaq, consolidates order and trade data from all markets trading Nasdaq-listed securities. The Exchange uses the term ''UTP SIP'' herein when referring specifically to the SIP responsible for consolidation of information in Nasdaq-listed securities.

[7] The Exchange is proposing to adopt Primary Listing Market as a new term, defined in Nasdaq UTP Plan, Section X.A.8, as follows: ''[T]he national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.''

[8] In addition, securities may be listed on The Nasdaq Global Market or The Nasdaq Global Select Market, and also listed on the New York Stock Exchange (''dually-listed''). *See* The Nasdaq Stock Market, LLC Rules 5005(a)(11), 5220 and IM–5220.

[9] *See* proposed Rule 4120(a)(9).

[10] The Exchange proposes to also define the term ''SIP'' to have the same meaning as the term ''Processor'' as set forth in the Amended Nasdaq UTP Plan. Because the terms ''Processor'' and ''SIP'' are also used throughout the Rules, at times, to apply to processors of information furnished pursuant to the Consolidated Tape Association Plan (''CTA Plan''), the term ''Processor'' may, in those applicable circumstances, refer to the processor of transactions in Tape A and B securities, as set forth in the CTA Plan.

[11] The Exchange notes that pursuant to existing Rule 4120(b)(4)(C)–(D), the Regular Market Session occurs until 4:00 p.m. or 4:15 p.m., and the Post-Market Session begins at 4:00 p.m. or 4:15 p.m.

[12] ''Derivative Securities Product'' is currently defined in Rule 4120(b)(4)(A). ''Pre-Market Session'' is currently defined in Rule 4120(b)(4)(B). ''Required Value'' is currently defined in Rule 4120(b)(4)(E).

[13] ''Post-Market Session'' is currently defined in Rule 4120(b)(4)(C).

[14] As noted above, the Exchange is adopting several new terms that have the same meaning as those terms are defined in the Amended Nasdaq UTP Plan. Each of the national market system plans governing the single plan processors has identical definitions of these terms, thus there will be

First, the Exchange proposes to add the definition of ''Primary Listing Market'' [15] to Rule 4120, which will have the same meaning as in the Amended Nasdaq UTP Plan, Section X.A.8. As is currently the case under Rule 4120 and under the Nasdaq UTP Plan, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches language used in the definition of ''Primary Listing Exchange'' in the Limit-Up Limit-Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add the definition of ''Extraordinary Market Activity'' to Rule 4120,[16] which would represent a modified version of the term defined in the Amended Nasdaq UTP Plan, Section X.A.1.[17] Specifically, the Exchange proposes to remove the concept of a ''market-wide basis'' from the Amended Nasdaq UTP Plan's definition of Extraordinary Market Activity for purposes of the Exchange's Rules because the term ''Extraordinary Market Activity'' would only be used in the Exchange's Rules as a basis for the Exchange to initiate an Operational Halt, which would only occur on the market declaring the halt (*i.e.,* the Exchange).[18] The current rule does not include a definition for Extraordinary Market Activity.

The third set of new proposed definitions would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of ''Extraordinary Market Activity'' (as defined in the Amended Nasdaq UTP Plan), the Exchange believes that the critical role of the SIPs in market infrastructure factors in favor of additional guidance on how such events will be handled. The definitions of ''SIP Halt Resume Time'' and ''SIP Halt'' are intended to provide additional guidance to address this subset of potential market issues.[19] In addition, the Exchange is proposing to define terms related to SIP governance needed in order to understand these definitions:

- ''Processor'' or ''SIP'' [20] have the same meaning as the term ''Processor'' set forth in the Nasdaq UTP Plan, namely the entity selected by the Participants to perform the processing functions set forth in the Plan. Because the terms ''Processor'' and ''SIP'' are also used throughout the Rules, at times, to apply to processors of information furnished pursuant to the CTA Plan, the term ''Processor'' and ''SIP'' may, in those applicable circumstances, refer to the processor of transactions in Tape A and B securities, as set forth in the CTA Plan.
- ''SIP Plan'' [21] is defined as the national market system plan governing the SIP.
- ''Operating Committee'' [22] is defined as having the same meaning as in the Nasdaq UTP Plan, namely the committee charged with administering the Nasdaq UTP Plan.

The Exchange is proposing to adopt a category of Regulatory Halt, called a ''SIP Halt,'' [23] which will have the same meaning as that term is defined in Section X.A.11. of the Nasdaq UTP Plan, namely ''a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.'' This new category of Regulatory Halt will address situations where the Primary Listing Market declares a Regulatory Halt in one or more securities as a result of a SIP outage [24] or material SIP latency.[25]

The Exchange proposes to add a definition of ''Regulatory Halt'' [26] as having the same meaning as in Section X.A.10 of the Amended Nasdaq UTP Plan. Specifically, the Exchange has proposed to define Regulatory Halt to mean a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity (as defined in the Amended Nasdaq UTP Plan), a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.

The Exchange proposes to add a definition of ''Operational Halt,'' [27] which is defined as having the same meaning as in Section X.A.7 of the Amended Nasdaq UTP Plan. Specifically, the Exchange is proposing to define Operational Halt to mean a halt in trading in one or more securities only on the market declaring the halt

uniformity in the meaning of the terms among such plans as well as among the rules of the SROs.

[15] *See* proposed Rule 4120(a)(7).

[16] *See* proposed Rule 4120(a)(2).

[17] In the Amended Nasdaq UTP Plan, ''Extraordinary Market Activity'' means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, or transaction information for a sustained period.

[18] The Exchange proposes to define ''Extraordinary Market Activity'' to mean a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, or transaction information for a sustained period.

[19] The Exchange proposes to define the terms ''SIP Halt Resume Time'' and ''SIP Halt'' to have the same meaning as in the Amended Nasdaq UTP Plan.

[20] *See* proposed Rule 4120(a)(8).

[21] *See* proposed Rule 4120(a)(14).

[22] *See* proposed Rule 4120(a)(3).

[23] *See* proposed Rule 4120(a)(12).

[24] SIP outage means a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future. *See* Amended Nasdaq UTP Plan, Section X.A.13.

[25] Material SIP latency means a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the Processor's vendor lines, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future. *See* Amended Nasdaq UTP Plan, Section X.A.5.

[26] *See* proposed Rule 4120(a)(9).

[27] *See* proposed Rule 4120(a)(4).

and is not a Regulatory Halt. An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the impacted securities. In practice, the Exchange has always had the capacity to implement operational halts in specified circumstances.[28] The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.[29]

Regulatory Halt

Proposed Rule 4120(b)(1)(A)(i)–(ii) includes two situations in which the Exchange must halt trading pursuant to a Regulatory Halt: under the Limit Up-Limit Down Plan or pursuant to extraordinary market volatility (market-wide circuit breakers). Proposed Rule 4120(b)(1)(A)(i) retains without substantive modification the existing rule with respect to the Limit Up-Limit Down Plan (current Rule 4120(a)(13)). The Exchange, as a non-Primary Listing Market, does not itself declare trading pauses pursuant to the Limit Up-Limit Down Plan, but rather implements such pauses declared by Primary Listing Markets. The Exchange proposes to make clear in Rule 4120(b)(1)(A)(ii) that a trading halt pursuant to extraordinary market volatility (market-wide circuit breakers), as is described in Rule 4121, constitutes a Regulatory Halt. This would replace current Rule 4120(a)(11). The Exchange also proposes to delete language at the end of Rule 4120 related to current Rule 4120(a)(11), which refers to a pilot and is no longer needed.[30]

Proposed Rule 4120(b)(1)(A)(iv) retains without substantive modification existing Rule 4120(12), which requires the Exchange to halt trading if a security listed on the Exchange fails to meet the continued listing standard of a minimum bid price of at least $0.25 per share under the Exchange's venture market listing rules.[31]

The Exchange would also consolidate subsections concerning a Regulatory Halt declared by Primary Listing Markets in Rule 4120(b)(1)(A)(iii). The Exchange believes this consolidation would add clarity to the rule. As is the case under the current rule, the Exchange would honor a Regulatory Halt.

The Exchange proposes to add proposed Rule 4120(b)(1)(A)(iii)(a)(1), which makes clear that the start time of a Regulatory Halt is the time the Primary Listing Market declares the Regulatory Halt, regardless of whether communications issues impact the dissemination of notice of the Halt.[32] This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all trading centers. However, a fixed ''official'' Regulatory Halt time will allow SROs to revisit trades after the fact and determine in a consistent manner whether specific trades should stand.

Current Rule 4120(a)(2), which states that the Exchange may halt trading on the Exchange of a security listed on another national securities exchange during a trading halt imposed by such exchange to permit the dissemination of material news, would become proposed Rule 4120(b)(1)(A)(iii)(a)(2). Consistent with Section X.G of the Nasdaq UTP Plan, the proposed Rule will more broadly require the Exchange to halt trading of a UTP security if the Primary Listing Market declares a Regulatory Halt in that security.

Current Rule 4120(b), which governs trading halts in certain Derivative Securities Products traded on the Exchange pursuant to unlisted trading privileges, would become proposed Rule 4120(b)(1)(A)(iii)(a)(3), without any substantive changes. Subsection (b)(1)(A)(iii)(a)(3) would replace the term ''Regular Market Session'' with the term ''Regular Trading Hours'' to stay consistent with other portions of the proposed rule. The change is non-substantive and would still refer to the period between 9:30 a.m. and 4:00 p.m. Eastern Time on days when the Exchange is open for trading. No other changes have been made to this subsection.

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange, the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith,[33] and certain parts of the complex process of reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP), the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Regular Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 4120(b)(2) provides the process to be followed when resuming trading upon the conclusion of a Regulatory Halt. The new rule, which incorporates Section X.E.1 and X.F.3 of the Amended Nasdaq UTP Plan, is divided into the following two subsections concerning resumption of trading: (A) after a Regulatory Halt other than a SIP Halt; and (B) after a SIP Halt. Proposed Rule 4120(b)(2)(A)(i) provides that, for a Regulatory Halt other than a SIP Halt, the Exchange may resume

[28] *See* By-Laws of Nasdaq BX, Inc., Section 12.5 (''Authority to Take Action Under Emergency or Extraordinary Market Conditions''), available at *https://listingcenter.nasdaq.com/assets/rulebook/bx/rules/BX_Corporate_Organization.pdf.*

[29] The Exchange notes that it proposes to amend the existing definition of the term ''Post-Market Session'' to clarify that it is a trading session that begins after ''Regular Trading Hours''—a term that, in turn, is defined in the Nasdaq UTP Plan—and that such session begins at ''approximately'' 4:00 p.m. *See* Proposed Rule 4120(a)(5).

[30] Specifically, the Exchange proposes to delete the following provision: ''The provisions of paragraph (a)(11) of this Rule shall be in effect during a pilot set to end on the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014. During the pilot, the term ''Circuit Breaker Securities'' shall mean all NMS stocks except rights and warrants.''

[31] The Exchange proposes retaining this provision because it is required by a continued listing standard that remains in the rulebook. However, the Exchange's venture market listing rules are not active, as described further below, and the Exchange is not currently operating as a Primary Listing Market. To the extent the Exchange proceeds with a listing market in the future, the Exchange will submit a proposed rule change at that time to adopt halts appropriate for a Primary Listing Market, as described further below.

[32] This is consistent with the Amended Nasdaq UTP Plan. *See* Amended Nasdaq UTP Plan, Section X.D.1.

[33] *See* Partial Amendment No. 1 of Trading Halt Amendments to the UTP Plan, dated March 31, 2021.

trading subject to the Regulatory Halt after the Exchange receives notification from the Primary Listing Market that the Regulatory Halt has been terminated. The Exchange does not conduct halt crosses and, therefore, the resumption of trading in these securities will occur once notice from the Primary Listing Market is received.

Proposed Rule 4120(b)(2)(B)(i) provides that, for securities subject to a SIP Halt initiated by another exchange that is the Primary Listing Market, during Regular Trading Hours, the Exchange may resume trading after trading has resumed on the Primary Listing Market or notice has been received from the Primary Listing Market that trading may resume. During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, the Exchange may resume trading in that security. Outside Regular Trading Hours, the Exchange may resume trading immediately after the SIP Halt Resume Time.[34] Proposed Rule 4120(b)(2) is consistent with current practice.

The Exchange proposes to add Rule 4120(b)(3) to codify current practice and add clarity to the Rules, consistent with the language proposed by Nasdaq PHLX LLC. Proposed Rule 4120(b)(3) states that the Exchange will not conduct a halt cross or re-opening cross and will process new and existing orders during a Regulatory Halt as follows: (1) any unexecuted portion of Midpoint Peg and Midpoint Peg Post-Only Orders will be cancelled,[35] (2) all other resting Orders in the Exchange Book will be maintained at their last ranked price and displayed price, (3) the Exchange will accept and process all cancellations, and (4) Orders, including Order modifications, entered during the Regulatory Halt will not be accepted. Proposed Rule 4120(b)(3)(D) retains without substantive modification existing Rule 4120(c)(4)(B).

The Exchange proposes to delete current Rule 4120(a) (except for Rule 4120(a)(2), (11), (12), and (13) (as described above)), which provides the Exchange with authority to initiate halts.[36] In part, current Rule 4120(a) provides the Exchange with authority to initiate Regulatory Halts akin to that of a Primary Listing Market. Although the Exchange has BX venture market listing Rules, BX does not serve as a listing market and therefore the proposed Rules herein reflect that of a non-Primary Listing Market.[37] Specifically, the Exchange proposes to remove authority provided under the current rules that allows the Exchange to institute a Regulatory Halt in circumstances where the Exchange requests additional information from an issuer (current Rule 4120(a)(5)), where extraordinary market activity in the security is occurring and the Exchange determines that such extraordinary market activity is likely to have a material effect on the market for the security (current Rule 4120(a)(6)), to allow for the dissemination of material news (current Rule 4120(a)(1)), and to protect a fair and orderly market in the trading of index warrants (current Rule 4120(a)(8)). The proposed rule change would remove the Exchange's discretion, provided under current Rule 4120(a)(9), to halt trading in a series of Portfolio Depository Receipts, Index Fund Shares, or Managed Fund Shares (as defined in Equity 3A, Section 2) listed on the Exchange if the Intraday Indicative Value (as defined in Equity 3A, Section 2) or the index value applicable to that series is not being disseminated as required, during the day in which the interruption to the dissemination of the Intraday Indicative Value or the index value occurs. The proposed rule change would also remove the Exchange's discretion, provided under current Rule 4120(a)(4), to halt trading in an American Depository Receipt (''ADR'') or other security listed on the Exchange, when the security listed on the Exchange or the security underlying the ADR is listed on or registered with another national or foreign securities exchange or market, and the national or foreign securities exchange or market, or regulatory authority overseeing such exchange or market, halts trading in such security for regulatory reasons. The proposed rule change would also remove the requirement to halt trading in the Derivative Securities Product when the Exchange becomes aware that the net asset value of a Derivative Securities Product (or the Disclosed Portfolio in the case of Managed Fund Shares) is not being disseminated to all participants at the same time (current Rule 4120(a)(10)).

In addition, The Exchange proposes to delete current Rule 4120(c), which provides procedures for initiating and terminating a trading halt. The Exchange would not initiate a Regulatory Halt given its status as a non-Primary Listing Market, rendering language in the current rule inapplicable. Proposed procedures for terminating Regulatory Halts and resuming trading are included in proposed Rule 4120(b)(2), as discussed above.

Operational Halt

The Exchange proposes in Rule 4120(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that calls the halt. The ability to call an Operational Halt has existed for a long time, although in the Exchange's experience, such halts have rarely been initiated. As part of the Exchange's assessment with the other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate.[38] In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended Nasdaq UTP Plan) if it affects multiple markets, so a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 4120(c) would authorize the Exchange to implement an Operational Halt for any security trading on the Exchange:

- if it is experiencing Extraordinary Market Activity[39] on the Exchange; or

[34] *See* Partial Amendment No. 2 of Trading Halt Amendments to the UTP Plan, dated April 7, 2021.

[35] Proposed Rule 4120(b)(3) applies to Regulatory Halts. Consistent with current practice, Midpoint Pegged Orders are only cancelled during Regulatory Halts. In contrast, during an Operational Halt, Midpoint Pegged Orders are not cancelled. The Exchange notes that its sister exchange, Nasdaq, intends to file a proposed rule change to reflect this concept.

[36] Deletion of Rule 4120(a)(3) is described in the ''Operational Halt'' section below.

[37] If BX proceeds with a listing market in the future, the Exchange will update Rule 4120 accordingly, among other necessary proposed rule changes at that time.

[38] Differences between Nasdaq and the Exchange's proposals as it relates to Operational Halts stem from Nasdaq's status as a Primary Listing Market, unlike the Exchange.

[39] ''Extraordinary Market Activity'' in proposed Rule 4120(c) would have the meaning proposed by the Exchange, which is a modified form of the term

Continued

• when otherwise necessary to maintain a fair and orderly market or in the public interest.

The Exchange is proposing to delete Rule 4120(a)(3) that authorizes the Exchange to institute an ''operational trading halt'' in a security listed on another exchange when that exchange imposes a trading halt because of an order imbalance or influx. The Exchange believes this language could restrict its ability to follow an Operational Halt imposed by another market to a limited set of fact patterns. The Exchange believes that the broader language provided by the definition of Extraordinary Market Activity and the ability to initiate an Operational Halt when necessary to maintain a fair and orderly market will better serve the interests of investors by allowing the Exchange to act where appropriate.

Proposed Rule 4120(c)(2) provides the process for initiating an Operational Halt. Under the proposed rule, the Exchange must notify the SIP if it has concerns about its ability to collect and transmit Quotation Information or Transaction Reports, or if it has declared an Operational Halt or suspension of trading in one or more Eligible Securities, pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 4120(c)(3) will clarify how the Exchange resumes trading after an Operational Halt. Proposed Rule 4120(c)(3)(A) provides that the Exchange would resume trading when it determines that trading may resume in a fair and orderly manner consistent with the Exchange's rules. Proposed Rule 4120(c)(3)(B) provides that orders entered during the Operational Halt will not be accepted, unless subject to instructions that the order will be directed to another exchange. Proposed Rule 4120(c)(3)(C) provides that trading in a halted security shall resume at the time specified by the Exchange in a notice. Proposed Rule 4120(c)(3)(C) also specifies that Exchange will notify all other Plan participants and the SIP using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange will take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange is proposing to modify Rule 4702 that cross references Rule 4120 in light of the reorganization of Rule 4120. Rule 4702 (Order Types) will be modified to update a cross reference to the Rule that governs Limit-Up-Limit-Down procedures.

In addition, the Exchange is proposing to modify Equity 3, Rule 5815 that cross references Rule 4120 in light of the reorganization of Rule 4120. Rule 5815(a)(1)(C) will be modified to update a cross reference to the Rule that governs halts for failure to meet the continued listing standard of a minimum bid price of at least $0.25 per share under the Exchange's venture market listing rules.[40]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[41] Specifically, the proposal is consistent with Section 6(b)(5) of the Act[42] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act[43] because they will foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways. This avoids the ''brittle market'' risk where an isolated event at a single market forces all markets trading equities securities to halt or halts trading in all securities where the issue impacted only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act's goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rules' focus of responsibility on the Primary Listing Market for decisions related to a Regulatory Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security, such as on the Exchange, or in the over-the-counter market, regulated by FINRA. The Exchange is responsible for monitoring activity on its own markets, but also must honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events and ensure that all trading centers recognize a Regulatory Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended Nasdaq UTP Plan.

from the Amended Nasdaq UTP Plan, as described above.

[40] *Supra* note 31.

[41] 15 U.S.C. 78f(b).

[42] 15 U.S.C. 78f(b)(5).

[43] 15 U.S.C. 78f(b)(5).

The Exchange believes that the definitions in the proposed rules are also consistent with the Act. The Exchange proposes adding a definitions section as Rule 4120(a) to consolidate the various definitions that will be used in the Rule, some of which are taken from the Amended Nasdaq UTP Plan. The Exchange is adopting a modified form of the term ''Extraordinary Market Activity'' from the Amended Nasdaq UTP Plan, as described above. In addition, several other definitions have been moved into the definitions section from elsewhere in the current rule without changes in the definitions. As noted, certain definitions are consistent with the definitions in the Amended Nasdaq UTP Plan, furthering the Act's goal of promoting fair and orderly markets. For example, the Exchange is proposing to adopt a definition of ''SIP Halt,'' to explicitly address a situation that may disrupt the markets, and this definition is identical to the definition in the Amended Nasdaq UTP Plan. In addition to ''SIP Halt,'' the Exchange is adopting the following terms from the Amended Nasdaq UTP Plan: ''Operating Committee,'' ''Operational Halt,'' ''Primary Listing Market,'' ''Processor,'' ''Regulatory Halt,'' ''Regular Trading Hours,'' and ''SIP Halt Resume Time,'' as discussed above.

The Exchange believes that the proposed rules, which make halts more consistent across exchange rules, are consistent with the Act in that they will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple trading centers are impacted in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rules relating to Regulatory Halts focuses primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular market.

Also consistent with the Act, and with the Amended Nasdaq UTP Plan, is the Exchange's proposal in Rule 4120(c) to address Operational Halts, which are non-regulatory in nature and apply only to the exchange that calls the halt. As noted earlier, the Exchange presently has the ability to call an Operational Halt, but does so rarely. The Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. The proposed change is designed to cover situations where the impact is limited to a single market. For example, a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 4120(c) would authorize the Exchange to implement an Operational Halt for any security trading on the Exchange: (i) if it is experiencing Extraordinary Market Activity on the Exchange; or (ii) when otherwise necessary to maintain a fair and orderly market or in the public interest.

The Exchange believes that it is consistent with the Act to delete parts of Rule 4120 that are no longer needed, including substantial portions of Rule 4120(a) (as described above) and Rule 4120(c). The Exchange proposes to remove the authority provided to the Exchange to initiate Regulatory Halts as a Primary Listing Market in current Rule 4120(a) given the Exchange's status as a non-Primary Listing Market. In addition, current Rule 4120(a)(3) authorizes the Exchange to institute an ''operational trading halt'' in a security listed on another exchange when that exchange imposes a trading halt because of an order imbalance or influx. The Exchange believes this language could restrict its ability to follow an Operational Halt imposed by another market to a limited set of fact patterns. The Exchange believes that the broader language provided by the definition of Extraordinary Market Activity in proposed Rule 4120(c) will better serve the interests of investors by allowing the Exchange to act where appropriate. The Exchange proposes to delete current Rule 4120(c), which provides procedures for initiating and terminating a trading halt, to remove obsolete language and harmonize procedures for terminating Regulatory Halts and resuming trading. Finally, the Exchange proposes to delete language from current Rule 4120 relating to effectiveness of paragraph (a)(11), which is obsolete. Other sections of current Rule 4120 are reorganized and retained without substantive modifications, as described above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act [44] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities, consistent with the Amended Nasdaq UTP Plan. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure that all SROs handle the situations covered therein in a consistent manner and ensure that all trading centers handle a Regulatory Halt consistently. The Exchange understands that all other non-Primary Listing Markets intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that its proposals concerning Operational Halts impose an undue burden on competition. Under the existing Rules, the Exchange already possesses discretionary authority to impose Operational Halts for various reasons, including because of an order imbalance or influx that causes another national securities exchange to impose a trading halt in a security. As described earlier, the proposed Rule change clarifies and broadens the circumstances in which the Exchange may impose such Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive impact whatsoever. Indeed, the Exchange expects that other exchanges will adopt similar rules and procedures to govern operational halts, to the extent that they have not done so already.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely

[44] 15 U.S.C. 78f(b)(8).

accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers. In addition, the declaration and timing of trading halts and the resumption of trading is designed to avoid any advantage to those who can react more quickly than other participants. The proposals encourage early and frequent communication among the SROs, SIPs and market participants to enable the dissemination of timely and accurate information concerning the market to 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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [45] and subparagraph (f)(6) of Rule 19b–4 thereunder.[46]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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.

[45] 15 U.S.C. 78s(b)(3)(A)(iii).

[46] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2023–007 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–2023–007. 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–2023–007 and should be submitted on or before April 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06054 Filed 3–23–23; 8:45 am]

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[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97171; File No. SR–NSCC–2022–015]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Make Certain Enhancements to the Gap Risk Measure and the VaR Charge

March 20, 2023.

I. Introduction

On December 2, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2022–015 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 21, 2022,[3] and the Commission has received one comment regarding the changes proposed in the Proposed Rule Change.[4]

On January 24, 2023, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[6] This order institutes proceedings, pursuant to Section 19(b)(2)(B) of the Act,[7] to determine whether to approve or disapprove the Proposed Rule Change.

II. Summary of the Proposed Rule Change

A key tool that NSCC uses to manage its respective credit exposures to its members is the daily collection of margin from each member, which is referred to as each member's Required Fund Deposit.[8] The aggregated amount

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 96511 (Dec. 15, 2022), 87 FR 78157 (Dec. 21, 2022) (File No. SR–NSCC–2022–015) (''Notice of Filing'').

[4] Comments are available at *https://www.sec.gov/comments/sr-nscc-2022-015/srnscc2022015.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] Securities Exchange Act Release No. 96740 (Jan. 24, 2023), 88 FR 5953 (Jan. 30, 2023) (SR–NSCC–2022–015).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] The description of the Proposed Rule Change is based on the statements prepared by NSCC in the Notice. *See* Notice, *supra* note 3. Capitalized terms used herein and not otherwise defined herein are defined in the Rules, *available at https://www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

of all members' margin constitutes the Clearing Fund, which NSCC would access should a defaulted member's own margin be insufficient to satisfy losses to NSCC caused by the liquidation of that member's portfolio.

Each member's margin consists of a number of applicable components, each of which is calculated to address specific risks faced by NSCC.[9] Generally, the largest portion of a member's margin is the volatility component, often referred to as the VaR Charge, which is designed to reflect the amount of money that could be lost on a portfolio over a given period within a 99th percentile level of confidence. Under NSCC's current rules, one of the potential methods of calculating the VaR Charge relies on a measure of gap risk.[10] It does not accrue for all portfolios, but instead only serves as the VaR Charge if it is the largest of three potential calculations.[11] The gap risk charge was designed to address the risk presented by a portfolio that is more susceptible to the effects of gap risk events, *i.e.,* those portfolios holding positions that represent more than a certain percent of the entire portfolio's value, such that the event could impact the entire portfolio's value.[12]

To calculate the gap risk charge, NSCC multiplies the gross market value of the largest non-index net unsettled position in the portfolio by a gap risk haircut, which can be no less than 10 percent (''gap risk haircut'').[13] Currently, NSCC determines the gap risk haircut empirically as no less than the larger of the 1st and 99th percentiles of three-day returns of a set of CUSIPs that are subject to the VaR Charge pursuant to the Rules, giving equal rank to each to determine which has the highest movement over that three-day period. NSCC uses a look-back period of not less than ten years plus a one-year stress period, and if the one-year stress period overlaps with the look-back period, only the non-overlapping period would be combined with the look-back period. The resulting haircut is then rounded up to the nearest whole percentage and applied to the largest non-index net unsettled position to determine the gap risk charge.

As described in the Notice, NSCC proposes to modify Procedure XV (Clearing Fund Formula and Other Matters) of NSCC's Rules & Procedures (''Rules'') to make the following changes to the gap risk charge: (1) make the gap risk charge an additive component of the member's total VaR Charge when it is applicable, rather than being applied as the applicable VaR Charge only when it is the largest of three separate calculations, (2) adjusting the gap risk charge to be based on the two largest positions in a portfolio, rather than based on the single largest position, (3) changing the floor of the gap risk haircut from 10 percent to 5 percent for the largest position, adding a floor of the gap risk haircut of 2.5 percent for the second largest position, and providing that gap risk haircuts would be determined based on backtesting and impact analysis, and (4) amending which ETF positions are excluded from the gap risk charge to more precisely include ETFs that are more prone to gap risk, *i.e.,* are non-diversified.

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[14] to determine whether the Proposed Rule Change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the Proposed Rule Change, providing the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the Proposed Rule Change.

Pursuant to Section 19(b)(2)(B) of the Act,[15] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the Proposed Rule Change's consistency with Section 17A of the Act,[16] and the rules thereunder, including the following provisions:

- Section 17A(b)(3)(F) of the Act,[17] which requires, among other things, that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to protect investors and the public interest; and
- Rule 17Ad–22(e)(4)(i) of the Act, [18] which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.
- Rule 17Ad–22(e)(6)(i) of the Act,[19] which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act,[20] and Rules 17Ad–22(e)(4)(i), (e)(6)(i) and (e)(23)(ii) of the Act,[21] or any other

[9] *See* Procedure XV of the Rules, *supra* note 8.

[10] Gap risk events have been generally understood as idiosyncratic issuer events (for example, earning reports, management changes, merger announcements, insolvency, or other unexpected, issuer-specific events) that cause a rapid shift in price volatility levels.

[11] Specifically, the VaR Charge is the greatest of (1) the larger of two separate calculations based on different underlying estimates that utilize a parametric VaR model, which addresses the market risk of a member's portfolio (referred to as the core parametric estimation), (2) the gap risk calculation, and (3) a portfolio margin floor calculation based on the market values of the long and short positions in the portfolio, which addresses risks that might not be adequately addressed with the other volatility component calculations.

[12] *See* Section I(A)(1)(a)(i)II and I(A)(2)(a)(i)II of Procedure XV of the Rules, *supra* note 8. *See also* Exchange Act Release Nos. 82780 (Feb. 26, 2018), 83 FR 9035 (Mar. 2, 2018) (SR–NSCC–2017–808); 82781 (Feb. 26, 2018), 83 FR 9042 (Mar. 2, 2018) (SR–NSCC–2017–020) (''Initial Filing'').

[13] *See* Section I(A)(1)(a)(i)II and I(A)(2)(a)(i)II of Procedure XV, *supra* note 8.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *Id.*

[16] 15 U.S.C. 78q–1.

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17Ad–22(e)(4)(i).

[19] 17 CFR 240.17Ad–22(e)(6)(i).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i) and (e)(23)(ii).

provision of the Act, or the rules and regulations thereunder.

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by April 14, 2023. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 28, 2023.

The Commission asks that commenters address the sufficiency of NSCC's statements in support of the Proposed Rule Change, which are set forth in the Notice,[22] in addition to any other comments they may wish to submit about the Proposed Rule Change.

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–NSCC–2022–015 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–NSCC–2022–015. 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 NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2022–015 and should be submitted on or before April 14, 2023. Rebuttal comments should be submitted by April 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06059 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

[22] *See* Notice, *supra* note 3.

[23] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–580, OMB Control No. 3235–0642]

Submission for OMB Review; Comment Request; Extension: Investment Company Interactive Data

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 (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Certain funds have current requirements to submit to the Commission information included in their registration statements, or information included in or amended by any post-effective amendments to such registration statements, in response to certain form items in structured data language (''Investment Company Interactive Data''). This also includes the requirement for funds to submit interactive data to the Commission for any form of prospectus filed pursuant to 17 CFR 230.497(c) or 17 CFR 230.497(e) under the Securities Act of 1933 (''Securities Act'') [15 U.S.C. 77a *et seq.*] that includes information in response to certain form items. This collection of information relates to regulations and forms adopted under the Securities Act, and the Investment Company Act of 1940 (''Investment Company Act'') [15 U.S.C. 80a–1 *et seq.*], that set forth disclosure requirements for funds and other issuers.

On October 26, 2022, the Commission adopted rule and form amendments that require open-end management investment companies (''open-end funds'') to transmit concise and visually engaging annual and semi-annual reports to shareholders that highlight key information that is particularly important for retail investors to assess and monitor their fund investments.[1] The Commission also adopted amendments to Form N–1A, Form N–CSR, and rule 405 of Regulation S–T to require certain new structured data requirements for open-end funds.[2] Specifically, the final rule and form amendments require open-end funds to tag their shareholder report contents using Inline eXtensible Business Reporting Language or ''Inline XBRL.'' These requirements will make open-end funds' shareholder report disclosure more readily available and easily accessible for aggregation, comparison, filtering, and other analysis.

The Commission estimates that the total current annual hour burden associated with the Investment Company Interactive Data requirements is approximately 252,684 hours. Based on estimates of 11,840 open-end funds, each incurring 6 hours on average annually to tag their shareholder reports using Inline XBRL, the Commission estimates that, in the aggregate, funds will incur an additional 71,040 annual burden hours. The Commission therefore estimates that, in the aggregate, Investment Company Interactive Data requirements will result in approximately 323,724 annual burden hours (252,684 currently-estimated annual burden hours + 71,040 additional estimated annual burden hours).

The Commission estimates that the current average cost burden associated with the Investment Company Interactive Data requirements is approximately $15,449,450 per year. Based on the estimate of 11,840 open-end funds, each incurring approximately $50 additional annual external cost associated with tagging their shareholder reports using Inline XBRL, the Commission estimates that, in the aggregate, funds will incur an

[1] *See* Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, Investment Company Act Release No. 34731 (Oct. 26, 2022) (''Shareholder Reports Adopting Release'').

[2] *See* Shareholder Reports Adopting Release at section II.H.

additional $592,000 in annual external costs. The Commission therefore estimates that, in the aggregate, Investment Company Interactive Data requirements will result in approximately $16,041,450 in external costs ($15,449,450 in currently-estimated external costs + $592,000 in additional external costs).

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The collection of information under the Investment Company Interactive Data requirements is mandatory for all funds. Responses to the disclosure requirements will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB 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 24, 2023 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: March 20, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06046 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–181, OMB Control No. 3235–0184]

Submission for OMB Review; Comment Request; Extension: Form S–6

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 (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is ''Form S–6 (17 CFR 239.16), for Registration under the Securities Act of 1933 of Securities of Unit Investment Trusts Registered on Form N–8B–2 (17 CFR 274.13).'' Form S–6 is a form used for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') of securities of any unit investment trust (''UIT'') registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') on Form N–8B–2. Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N–8B–2 file post-effective amendments to their registration statements on Form S–6 in order to update their prospectuses.

The purpose of Form S–6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. This information collection differs significantly from many other federal information collections, which are primarily for the use and benefit of the collecting agency. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission estimates that there are approximately 1,019 initial registration statements filed on Form S–6 annually and approximately 607 annual post-effective amendments to previously effective registration statements filed on Form S–6. The Commission estimates that the hour burden for preparing and filing an initial registration statement on Form S–6 is 45 hours and for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S–6 is 40 hours. Therefore, we estimate that the total hour burden of preparing and filing registration statements on Form S–6 for all affected UITs is 68,365 hours. We estimate that the cost burden of preparing and filing an initial registration statement on Form S–6 is $38,825 and for preparing and filing a post-effective amendment is $23,434. Therefore, we estimate that the total cost burden of preparing and filing registration statements on Form S–6 for all affected UITs is $53,787,113.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form S–6 is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB 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 24, 2023 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: March 20, 2023.

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97167; File No. SR–MIAX–2023–12]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC To Amend Its Fee Schedule

March 20, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 9, 2023, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Fee Schedule (''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) modify the volume thresholds for the volume criteria in all tiers (described below) set forth in the Exchange's Market Maker[3] Sliding Scale for Market Maker transaction fees (the ''Sliding Scale''); and (ii) modify the volume thresholds for the volume criteria for tiers 2, 3, and 4 for Priority Customer[4] orders in the Priority Customer Rebate Program (the ''PCRP,'' described below).[5] The Exchange originally filed this proposal on February 28, 2023 (SR–MIAX–2023–10). On March 9, 2023, the Exchange withdrew SR–MIAX–2023–10 and resubmitted this proposal.

Background

In general, the Exchange assesses transaction fees to all Market Makers, which are based upon a threshold tier structure. Section 1)a)i) of the Fee Schedule sets forth the Market Maker Sliding Scale for Market Maker transaction fees. Pursuant to the Sliding Scale, the Exchange assesses a per contract transaction fee on a Market Maker for the execution of simple orders and quotes (collectively, ''simple orders'') and complex orders and quotes (collectively, ''complex orders'') based on the tier achieved. For Market Makers, the percentage threshold by tier is based on the Market Maker's percentage of total national Market Maker volume in all multiply-listed options classes that trade on the Exchange during a particular calendar month, or total aggregated volume (''TAV''), and the Exchange aggregates the volume executed by Market Makers in both simple and complex orders for purposes of determining the applicable tier and corresponding per contract transaction fee amount.[6] The Sliding Scale applies to all MIAX Market Makers for transactions in all multiply-listed products (except for mini-options), with fees established for standard option classes in the Penny Interval Program[7] (''Penny Classes'') and separate fees for standard option classes which are not in the Penny Program (''non-Penny Classes''), and further based on whether the Market Maker is acting as a ''Maker'' or a ''Taker'' in simple orders.[8] Market Makers that place resting liquidity, *i.e.,* quotes or orders on the MIAX System,[9] are assessed the ''maker'' fee (each a ''Maker''). Market Makers that execute against (remove) resting liquidity are generally assessed a higher ''taker'' fee (each a ''Taker'').

Further, the Exchange provides certain discounted Market Maker transaction fees for Members[10] and their qualified Affiliates[11] that achieve certain volume thresholds through the submission of Priority Customer orders under the Exchange's PCRP. Market Maker transaction fees are set forth in two tables in Section 1)a)i) of the Fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[4] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100.

[5] *See* Fee Schedule, Section 1)a)iii.

[6] The calculation of the volume thresholds does not include QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (''PRIME Participating Quotes or Orders'') and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (''cPRIME Participating Quote or Order'') (herein ''Excluded Contracts''). *See* Fee Schedule, page 2.

[7] *See* Securities Exchange Act Release No. 88988 (June 2, 2020), 85 FR 35153 (June 8, 2020) (SR–MIAX–2020–13). *See also* Exchange Rule 510(c).

[8] *See* Securities Exchange Act Release No. 78519 (August 9, 2016), 81 FR 54162 (August 15, 2016) (SR–MIAX–2016–21).

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[11] The term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, (''Affiliate''), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* Fee Schedule, note 1.

Schedule: the first table sets forth the transaction fees applicable to Members and their Affiliates that are in PCRP volume tier 3 or higher; and the second table sets forth the transaction fees applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher. The Sliding Scale also includes Maker and Taker fees in both tables in each tier for simple orders in Penny Classes and non-Penny Classes, where the fees are discounted/differentiated between the tables.

Section 1)a)iii) of the Fee Schedule describes the PCRP. Pursuant to the PCRP, the Exchange credits each Member the per contract amount set forth in the PCRP table [12] resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes, provided the Member meets certain percentage thresholds in a month as described in the PCRP table. However, the Exchange excludes the following orders from participating in the PCRP: in simple or complex, as applicable, QCC [13] and cQCC Orders,[14] mini-options, Priority Customer-to-Priority Customer Orders, C2C,[15] cC2C Orders,[16] PRIME and cPRIME AOC Responses, PRIME and cPRIME contra-side orders, PRIME [17] and cPRIME Orders,[18] for which both the Agency and contra-side order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400).

Volume for transactions in both simple and complex and in applicable PRIME and cPRIME orders in the PCRP are aggregated to determine the appropriate volume tier threshold applicable to each transaction. Volume is recorded for, and credits are delivered to, the Member that submits the order to MIAX. MIAX aggregates the contracts resulting from Priority Customer orders transmitted and executed electronically on MIAX from Members and their Affiliates for purposes of the volume thresholds described in the PCRP table.

Modifications to Volume Criteria Percentage Thresholds in all Tiers for the Market Maker Origin Applicable to Members and Affiliates in PCRP Volume Tier 3 or Higher

Currently, the Market Maker Sliding Scale volume thresholds applicable to Members and their Affiliates that are in PCRP volume tier 3 or higher are as follows: (i) 0.00% to 0.075% in tier 1; (ii) above 0.075% to 0.70% in tier 2; (iii) above 0.70% to 1.10% in tier 3; (iv) above 1.10% to 1.50% in tier 4; and (v) above 1.50% in tier 5.[19] For these types of transactions where the Market Maker is a Maker in Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.21 in tier 1, $0.16 in tier 2, $0.10 in tier 3, $0.05 in tier 4, and $0.03 in tier 5. For these types of transactions where the Market Maker is a Taker in Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.23 in tier 1, $0.22 in tier 2, $0.19 in tier 3, $0.18 in tier 4, and $0.17 in tier 5. For these types of transactions where the Market Maker is a Maker in non-Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.25 in tier 1, $0.19 in tier 2, $0.12 in tier 3, $0.08 in tier 4, and $0.06 in tier 5. For these types of transactions where the Market Maker is a Taker in non-Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.30 in tier 1, $0.27 in tier 2, $0.23 in tier 3, $0.22 in tier 4, and $0.21 in tier 5. For these types of transactions where the Market Maker is a Maker or Taker in Penny Classes for complex orders, the Exchange assesses per contract fees as follows: $0.25 in tier 1, $0.24 in tier 2, $0.21 in tier 3, $0.20 in tier 4, and $0.19 in tier 5. For these types of transactions where the Market Maker is a Maker or Taker in non-Penny Classes for complex orders, the Exchange assesses per contract fees as follows: $0.32 in tier 1, $0.29 in tier 2, $0.25 in tier 3, $0.24 in tier 4, and $0.23 in tier 5. The Exchange also assesses a surcharge of $0.12 per contract in all tiers for Market Maker transactions in complex orders when the Market Maker is trading against a Priority Customer complex order in Penny and non-Penny Classes.

The Exchange proposes to modify the volume thresholds for the volume criteria for the Market Maker Sliding Scale applicable to Members and their Affiliates that are in PCRP volume tier 3 or higher as follows: (i) tier 1 will be amended from 0.00% to 0.075% to now be 0.00% to 0.40%; (ii) tier 2 will be amended from above 0.075% to 0.70% to now be above 0.40% to 0.80%; (iii) tier 3 will be amended from above 0.70% to 1.10% to now be above 0.80% to 1.20%; (iv) tier 4 will be amended from above 1.10% to 1.50% to now be above 1.20% to 1.60%; and (v) tier 5 will be amended from above 1.50% to now be above 1.60%. The Exchange does not proposes to amend any of the Maker or Taker fee amounts pursuant to this proposal.

Modifications to Volume Criteria Percentage Thresholds in all Tiers for the Market Maker Origin Applicable to Members and Affiliates That Are Not in PCRP Volume Tier 3 or Higher

Currently, the Market Maker Sliding Scale volume thresholds applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher are as follows: (i) 0.00% to 0.075% in tier 1; (ii) above 0.075% to 0.70% in tier 2; (iii) above 0.70% to 1.10% in tier 3; (iv) above 1.10% to 1.50% in tier 4; and (v) above 1.50% in tier 5.[20] For these types of transactions where the Market Maker is a Maker in Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.23 in tier 1, $0.18 in tier 2, $0.12 in tier 3, $0.07 in tier 4, and $0.05 in tier 5. For these types of transactions where the Market Maker is a Taker in Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.25 in tier 1, $0.24 in tier 2, $0.21 in tier 3, $0.20 in tier 4, and $0.19 in tier 5. For these types of transactions where the Market Maker is a Maker in non-Penny Classes

[12] The Exchange notes an exception for broken up cPRIME Agency Orders in the PCRP, which are subject to the per contract credits described in the cPRIME Agency Order Break-up Table in Section 1)a)iii) of the Fee Schedule, below the PCRP table.

[13] A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretations and Policies .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Exchange Rule 516(j).

[14] A Complex Qualified Contingent Cross or ''cQCC'' Order is comprised of an originating complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in Rule 516, Interpretations and Policies .01, coupled with a contra-side complex order or orders totaling an equal number of contracts. Trading of cQCC Orders is governed by Rule 515(h)(4). *See* Exchange Rule 518(b)(6).

[15] A Customer Cross Order is comprised of a Priority Customer Order to buy and a Priority Customer Order to sell at the same price and for the same quantity. *See* Exchange Rule 516(i).

[16] A Complex Customer Cross or ''cC2C'' Order is comprised of one Priority Customer complex order to buy and one Priority Customer complex order to sell at the same price and for the same quantity. Trading of cC2C Orders is governed by Rule 515(h)(3). *See* Exchange Rule 518(b)(5).

[17] The Price Improvement Mechanism (''PRIME'') is a process by which a Member may electronically submit for execution (''Auction'') an order it represents as agent (''Agency Order'') against principal interest, and/or an Agency Order against solicited interest. *See* Exchange Rule 515A(a).

[18] Members may use PRIME to execute complex orders at a net price. ''cPRIME'' is the process by which a Member may electronically submit a ''cPRIME Order'' (as defined in Exchange Rule 518(b)(7)) it represents as agent (a ''cPRIME Agency Order'') against principal or solicited interest for execution (a ''cPRIME Auction''), pursuant to the provisions of Exchange Rule 515A. *See* Exchange Rule 515A, Interpretation and Policy .12(a).

[19] *See* Fee Schedule, Section 1)a)i), page 1.

[20] *See* Fee Schedule, Section 1)a)i), page 2.

for simple orders, the Exchange assesses per contract fees as follows: $0.27 in tier 1, $0.21 in tier 2, $0.14 in tier 3, $0.10 in tier 4, and $0.08 in tier 5. For these types of transactions where the Market Maker is a Taker in non-Penny Classes for simple orders, the Exchange assesses per contract fees as follows: $0.32 in tier 1, $0.29 in tier 2, $0.25 in tier 3, $0.24 in tier 4, and $0.23 in tier 5. For these types of transactions where the Market Maker is a Maker or Taker in Penny Classes for complex orders, the Exchange assesses per contract fees as follows: $0.25 in tier 1, $0.24 in tier 2, $0.21 in tier 3, $0.20 in tier 4, and $0.19 in tier 5. For these types of transactions where the Market Maker is a Maker or Taker in non-Penny Classes for complex orders, the Exchange assesses per contract fees as follows: $0.32 in tier 1, $0.29 in tier 2, $0.25 in tier 3, $0.24 in tier 4, and $0.23 in tier 5. The Exchange also assesses a surcharge of $0.12 per contract in all tiers for Market Maker transactions in complex orders when the Market Maker is trading against a Priority Customer complex order in Penny and non-Penny Classes.

The Exchange proposes to modify the volume thresholds for the volume criteria for the Market Maker Sliding Scale applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher as follows: (i) tier 1 will be amended from 0.00% to 0.075% to now be 0.00% to 0.40%; (ii) tier 2 will be amended from above 0.075% to 0.70% to now be above 0.40% to 0.80%; (iii) tier 3 will be amended from above 0.70% to 1.10% to now be above 0.80% to 1.20%; (iv) tier 4 will be amended from above 1.10% to 1.50% to now be above 1.20% to 1.60%; and (v) tier 5 will be amended from above 1.50% to now be above 1.60%. The Exchange does not proposes to amend any of the Maker or Taker fee amounts pursuant to this proposal.

The purpose of adjusting the percentage thresholds for the volume criteria in all tiers of the Market Maker Sliding Scale for both tables is for business and competitive reasons. In order to attract order flow, the Exchange initially set its volume thresholds so that they were meaningfully lower than other options exchanges. The Exchange now believes that it is appropriate to adjust the volume thresholds so that they are more in line with other exchanges, but will still remain highly competitive such that it should enable the Exchange to continue to attract order flow and maintain market share.

For example, NYSE American, LLC (''NYSE American'') provides a similar sliding scale for NYSE American Options Market Maker transactions. Pursuant to the NYSE American Options Market Maker sliding scale, the NYSE American Market Maker's tier for transaction fees is calculated based on that Market Maker's average daily volume (''ADV'') as a percentage of TCADV.[21] Similar to the Exchange's Market Maker Sliding Scale, the NYSE American Options Market Maker sliding scale tiers are as follows (including applicable fees for ''non-take volume'' and ''take volume''): [22] (i) 0.00% to 0.25% in tier 1 (per contract fee of $0.25 regardless of non-take or take volume); (ii) above 0.25% to 0.70% in tier 2 (per contract fees of $0.22 for non-take volume and $0.24 for take volume); (iii) above 0.70% to 1.50% in tier 3 (per contract fees of $0.12 for non-take volume and $0.17 for take volume); and (iv) above 1.50% in tier 4 (per contract fees of $0.09 for non-take volume and $0.14 for take volume).[23]

Modifications to Volume Criteria Percentage Thresholds in PCRP Tiers 2, 3 and 4

Currently, the volume thresholds applicable to Priority Customer orders in PCRP tiers 2, 3 and 4 are as follows: (i) above 0.50% to 1.20% in tier 2; (ii) above 1.20% to 1.75% in tier 3; and (iii) above 1.75% in tier 4.[24] For Priority Customer orders in the PCRP, the Exchange provides a per contract credit for simple orders in non-MIAX Select Symbols [25] as follows: $0.00 in tier 1, $0.10 in tier 2, $0.15 in tier 3, and $0.21 in tier 4. For Priority Customer orders in the PCRP, the Exchange provides a per contract credit for simple orders in MIAX Select Symbols as follows: $0.00 in tier 1, $0.10 in tier 2, $0.18 in tier 3, and $0.24 in tier 4. For Priority Customer orders in the PCRP, the Exchange provides a per contract credit for PRIME Agency Orders as follows: $0.10 in tier 1, $0.11 in tier 2, $0.11 in tier 3, and $0.11 in tier 4. For Priority Customer orders in the PCRP, the Exchange provides a per contract credit for cPRIME Agency orders based on the order break-up percentage, described in the cPRIME Agency Order Break-up Table in Section 1)a)iii) of the Fee Schedule.[26] For Priority Customer orders in the PCRP, the Exchange provides a per contract credit for complex orders as follows: $0.20 in tier 1, $0.21 in tier 2, $0.26 or $0.27 in tier 3 (depending on whether the executing buyer and seller are the same Member and Affiliate or not),[27] and $0.27 or $0.28 in tier 4 (depending on whether the executing buyer and seller are the same Member and Affiliate or not).[28]

The Exchange proposes to modify the volume thresholds for the volume criteria for Priority Customer orders in PCRP tiers 2, 3 and 4 as follows: (i) tier 2 will be amended from above 0.50% to 1.20% to now be above 0.50% to 1.50%; (ii) tier 3 will be amended from above 1.20% to 1.75% to now be above 1.50% to 2.00%; and (iv) tier 4 will be amended from above 1.75% to now be above 2.00%. The Exchange does not propose to amend any of the credit amounts in the PCRP pursuant to this proposal.

The purpose of adjusting the percentage thresholds for the volume criteria in tiers 2, 3 and 4 of the PCRP is for business and competitive reasons. In order to attract order flow, the Exchange initially set its volume thresholds so that they were meaningfully lower than other options exchanges. The Exchange now believes that it is appropriate to adjust the volume thresholds so that they are more in line with other exchanges, but will still remain highly competitive such that it should enable the Exchange to continue to attract order flow and maintain market share.

For example, NYSE American provides a similar range of volume thresholds for its American Customer Engagement (''ACE'') Program. Pursuant to the ACE Program, NYSE American Customer tiers for credits are calculated utilizing two different methods: (1) based on the Customer's electronic ADV as a percentage of TCADV; or (2) based on the total electronic ADV (of which 20% or greater of the minimum qualifying volume for each tier must be

[21] ''TCADV'' refers to Total Industry Customer equity and ETF option average daily volume. TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options. *See* NYSE American Options Fee Schedule, Key Terms and Definitions.

[22] For the purposes of the Sliding Scale transaction charges, all eligible volume that does not remove liquidity will be considered ''non-take volume''; whereas all volume that removes liquidity will be considered ''take volume.'' *See* NYSE American Options Fee Schedule, Section I.C. NYSE American Options Market Maker Sliding Scale—Electronic, page 9–10.

[23] *See id.*

[24] *See* Fee Schedule, Section 1)a)iii), page 5.

[25] The term ''MIAX Select Symbols'' means options overlying AAL, AAPL, AMAT, AMD, AMZN, BA, BABA, BB, BIDU, BP, C, CAT, CLF, CVX, DAL, EBAY, EEM, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, INTC, IWM, JNJ, JPM, KMI, KO, META, MO, MRK, NFLX, NOK, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, SPY, T, TSLA, USO, VALE, WBA, WFC, WMB, X, XHB, XLE, XLF, XLP, XOM and XOP. *See* Fee Schedule, Section 1)a)iii), note 14.

[26] *See* Fee Schedule, Section 1)a)iii), cPRIME Agency Order Break-up Table.

[27] *See* Fee Schedule, Section 1)a)iii), notes ◈ and ■.

[28] *See id.*

Customer) as a percentage of TCADV.[29] The ACE Program provides similar volume thresholds as the PCRP, which are as follows: (i) less than 0.40% in the Base tier; (ii) 0.40% to 0.75% in tier 1; (iii) above 0.75% to 1.00% in tier 2; (iv) above 1.00% to 1.25% in tier 3; (v) above 1.25% to 1.75% in tier 4; and (vi) above 1.75% in tier 5.[30]

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposed changes to the Fee Schedule are consistent with Section 6(b) of the Act[31] in general, and furthers the objectives of Section 6(b)(4) of the Act,[32] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[33] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes its proposal provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. 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.''[34] There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than 12.93% of the market share of executed volume of multiply-listed equity and exchange-traded fund (''ETF'') options trades for the month of February 2023.[35] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, the Exchange had a market share of 6.82% of executed volume of multiply-listed equity and ETF options for the month of February 2023.[36]

The Exchange believes that the ever-shifting market shares 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 transaction and/or non-transaction fee changes. For example, on February 28, 2019, the Exchange's affiliate, MIAX PEARL, LLC (''MIAX Pearl''), filed with the Commission a proposal to increase Taker fees in certain tiers for options transactions in certain Penny Classes for Priority Customers and decrease Maker rebates in certain tiers for options transactions in Penny Classes for Priority Customers (which fee was to be effective March 1, 2019).[37] MIAX Pearl experienced a decrease in total market share between the months of February and March of 2019, after the fees were in effect. Accordingly, the Exchange believes that the MIAX Pearl March 1, 2019 fee change may have contributed to the decrease in MIAX Pearl's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes its proposal to modify the volume thresholds for the volume criteria in all Market Maker Sliding Scale tiers and in tiers 2, 3 and 4 for Priority Customer orders in the PCRP is reasonable, equitably allocated and not unfairly discriminatory because these changes are for business and competitive reasons. In order to attract order flow, the Exchange initially set its volume thresholds at meaningful low levels. The Exchange now believes that it is appropriate to adjust these volume thresholds so that they are more reflective of the current operating conditions and the current type and amount of volume (Market Maker and Priority Customer orders) executed on the Exchange. The Exchange believes that the proposed volume thresholds will still allow the Exchange to remain highly competitive such that the thresholds should enable the Exchange to continue to attract order flow and maintain market share.

The Exchange believes its proposal to modify the volume thresholds for the volume criteria in all Market Maker Sliding Scale tiers and in tiers 2, 3 and 4 for Priority Customer orders in the PCRP is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same origin type are subject to the same volume thresholds, as proposed. With the proposed changes, Market Makers will have to increase their volume as a percentage threshold in order to achieve the lower fees afforded by the higher tiers of the Sliding Scale for both Market Maker transaction fee tables in simple and complex orders, as applicable. The Exchange cannot predict with certainty how many Market Makers with volume applicable to either table of the Sliding Scale will be impacted by the proposed higher volume thresholds; however, the Exchange notes that all Market Makers will be subject to the proposed thresholds, but based on volume in recent months, up to six Market Makers may be impacted by the proposed higher threshold volume requirements of the Sliding Scale to achieve lower transaction fees in simple (Penny and non-Penny Classes) and complex orders. However, even with the proposed volume threshold changes, the Exchange believes its volume thresholds will still allow the Exchange to remain highly competitive such that the thresholds should enable the Exchange to continue to attract order flow and maintain market share. As the amount and type of volume that is executed on the Exchange has shifted since it first established the Market Maker Sliding Scale, provided that the Market Maker and its Affiliates are in tier 3 of higher of the PCRP or not, the Exchange has determined to level-set the volume criteria threshold amounts so that they are more reflective of the current operating conditions and the current type and amount of volume executed on the Exchange.

Similarly, with the proposed changes, market participants will need increased volume as a percentage threshold of Priority Customer orders in the PCRP in order to achieve the higher rebates afforded by the higher tiers of the PCRP in simple and complex orders and PRIME and cPRIME Agency orders, as applicable. The Exchange cannot

[29] *See* NYSE American Options Fee Schedule, Section I.E.

[30] *See id.*

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(4).

[33] 15 U.S.C. 78f(b)(1) and (b)(5).

[34] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[35] *See* ''The Market at a Glance,'' *available at https://www.miaxoptions.com/* (last visited March 9, 2023).

[36] *See id.*

[37] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

predict with certainty how many market participants will be impacted by the proposed higher volume thresholds of the PCRP. However, even with the proposed volume threshold changes, the Exchange believes its volume thresholds will still allow the Exchange to remain highly competitive such that the thresholds should enable the Exchange to continue to attract order flow and maintain market share. As the amount and type of volume that is executed on the Exchange has shifted since it first established the PCRP, the Exchange has determined to level-set the volume criteria threshold amounts so that they are more reflective of the current operating conditions and the current type and amount of volume executed on the Exchange.

The Exchange believes it is equitable and not unfairly discriminatory to modify the volume thresholds for the volume criteria in all Market Maker Sliding Scale tiers and in tiers 2, 3 and 4 for Priority Customer orders in the PCRP for business and competitive reasons because the Exchange initially set its volume thresholds so that they were meaningfully lower than other options exchanges. The Exchange now believes that it is appropriate to adjust the volume thresholds so that they are more in line with other exchanges,[38] but will still remain highly competitive such that it should enable the Exchange to continue to attract order flow and maintain market share. The Exchange cannot predict with certainty, but the Exchange notes that even with the proposed increase to the volume thresholds for the volume criteria in tiers 2, 3 and 4 for Priority Customer orders in the PCRP, no Affiliated Market Makers will be affected (with the determining factor being Market Makers in PCRP tier 3 or higher or not being in PCRP tier 3 or higher). Stated another way, with the proposed changes to the PCRP volume threshold criteria, Market Makers with Affiliates in PCRP tier 3 or higher will continue to remain the same respective Market Maker Sliding Scale table. Likewise, Market Makers with Affiliates not in PCRP tier 3 or higher will continue to remain in the same respective Market Maker Sliding Scale table. The Market Makers that were not in PCRP tier 3 or higher prior to the proposed changes will continue to remain in the same respective Market Maker Sliding Scale table. Accordingly, the Exchange believes the proposed changes are reasonable and not unfairly discriminatory because the proposed changes to the PCRP volume criteria thresholds will impact all Market Makers equally when determining which transaction fee table they are assessed for the Market Maker Sliding Scale.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes its proposal will not impose any burden on intra-market competition because the Exchange believes that its proposal will not place any category of Exchange market participant at a competitive disadvantage because the changes would apply equally among market participants that have Priority Customer orders receive credits pursuant to the PCRP. As the amount and type of volume that is executed on the Exchange has shifted since it first established the PCRP and Market Maker Sliding Scale, the Exchange has determined to level-set the volume criteria threshold amounts so that they are more reflective of the current operating conditions and the current type and amount of volume executed on the Exchange. The proposal to modify the volume thresholds is intended to improve market quality. The Exchange believes that its proposal will continue to encourage additional Market Maker and Priority Customer volume to be executed on the Exchange, which will attract further liquidity to the Exchange and benefit all market participants. Accordingly, the Exchange believes that the proposed changes will continue to attract order flow to the Exchange, thereby encouraging additional volume and liquidity to the benefit of all market participants.

The Exchange believes its proposal will not impose any burden on inter-market competition because 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. There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than 12.93% of the market share of executed volume of multiply-listed equity and ETF options trades for the month of February 2023.[39] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, the Exchange had a market share of 6.82% of executed volume of multiply-listed equity and ETF options for the month of February 2023.[40] In such an environment, the Exchange must continually adjust its fees and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and tiers 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. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[41] and Rule 19b–4(f)(2)[42] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[38] *See* supra notes 22 and 29.

[39] *See supra* note 35.

[40] *See id.*

[41] 15 U.S.C. 78s(b)(3)(A)(ii).

[42] 17 CFR 240.19b–4(f)(2).

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–MIAX–2023–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2023–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–MIAX–2023–12 and should be submitted on or before April 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06055 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97170; File No. SR–NYSE–2023–18]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

March 20, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 13, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to amend the charges for transactions that remove liquidity from the Exchange. The Exchange proposes to implement the fee changes effective March 13, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend it Price List to amend the charges for transactions that remove liquidity from the Exchange.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-removing orders by offering further incentives for member organizations to send additional liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective March 13, 2023.[4]

Competitive Environment

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.'' [5]

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.'' [6] Indeed, cash equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer

[4] The Exchange originally filed to amend the Price List on March 1, 2023 (SR–NYSE–2023–16). SR–NYSE–2023–16 was withdrawn on March 13, 2023 and replaced by this filing.

[5] *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'').

[6] *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).

[7] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/*

Continued

internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 17% market share.[9] Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 12%.[10]

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 the firm routes order flow. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

In response to this competitive environment, the Exchange has established incentives for member organizations who submit orders that remove liquidity from the Exchange. These incentives offer a base remove fee that decreases as the member organization provides additional removing liquidity to the Exchange. As detailed below, the proposed higher fees are intended to encourage additional liquidity removing order flow to a public exchange, which benefits all market participants.

Proposed Rule Change

The Exchange currently offers a fee of $0.00290 in Tape A securities and a fee of $0.00285 for Tape B and C securities for non-Floor broker transactions if the member organization has an average daily volume (''ADV'') that adds liquidity to the Exchange during the billing month (''Adding ADV''),[11] excluding liquidity added by a Designated Market Maker (''DMM''), that is at least 2,000,000 ADV on the NYSE in Tape A securities. The Exchange proposes to increase the fee for removing in Tape B and C securities to $0.00295. The current fee for removing in Tape A securities of $0.00290 and the requirements to qualify for the fees would remain unchanged. Member organizations that do not qualify for the proposed fee based on the current requirements would receive the $0.0030 base remove rate for all tapes.

In addition, the Exchange currently offers a fee of $0.00285 in Tape A, B and C securities for non-Floor broker transactions if the member organization has an Adding ADV, excluding liquidity added by a DMM, that is at least 7,000,000 ADV in Tape A securities and 500,000 ADV in Tape B and Tape C securities combined during the billing month. The Exchange proposes to increase the fee for removing in Tape B and C securities to $0.00290. The current fee for removing in Tape A securities of $0.00285 and the requirements to qualify for the fees would remain unchanged. Member organizations that do not qualify for the current and proposed fees based on the current requirements would receive the $0.0030 base remove rate for all tapes.

The Exchange believes that the proposed changes, taken together, will encourage submission of additional removing liquidity in Tape A, B and C securities to qualify for lower fees, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The proposal seeks to encourage member organizations that are meeting or exceeding current ADV requirements to send additional removing liquidity in order to meet the next level requirements and therefore qualify for lower fees. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, that remove liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. Without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization increasing or decreasing their directing of orders to the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

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, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

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 to reduce use of certain categories of products, in response to fee changes. Member organizations can choose from any one of the 16 currently operating registered exchanges, and numerous off-exchange venues, to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders 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 by adjusting the incentives for all market participants to send additional order flow to a public exchange and increase the quality of order execution on the Exchange's market, which benefits all market participants.

AtsIssueData. A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] *See id.*

[11] The terms ''ADV'' and ''CADV'' are defined in footnote * of the Price List.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Regulation NMS, *supra* note 3, 70 FR at 37499.

More specifically, the Exchange believes that the proposed increase to the fees for transactions that remove liquidity from the Exchange in Tape A, B and C securities are reasonable. The purpose of these changes is to encourage additional liquidity on the Exchange by providing incentives for member organizations to send additional liquidity to qualify for the next incentive level, which would result in lower fees for removing liquidity for the member organization. The Exchange believes that the proposal will continue to encourage additional liquidity to a public exchange to qualify for lower fees for removing liquidity in Tape A, B and Tape C securities, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The proposal is thus reasonable because all member organizations would benefit from such increased levels of liquidity and from lower fees.

The Proposed Change Is an Equitable Allocation of Fees and Credits

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

The Exchange believes that, for the reasons discussed above, the proposed changes taken together, will encourage member organizations to send additional removing liquidity to achieve lower fees when removing liquidity in Tape A, B and Tape C securities from the Exchange, thereby increasing the number of orders that are executed on the Exchange, promoting price discovery and transparency and enhancing order execution opportunities and improving overall liquidity on a public exchange. The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated member organizations that remove liquidity in Tape A, B or Tape C securities. As previously noted, 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 member organizations choose to route to other exchanges or to off-exchange venues. Without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any member organization increasing or decreasing orders to the Exchange. The Exchange notes that the proposed fees from removing liquidity in Tape B and C securities are in line with what the Exchange charges in Tape A securities. The proposed fees are also in line with or better than what other exchanges charge. For example, the fee to remove liquidity at Cboe BZX is $0.0030 per share.[15] On MEMX, the fee to remove liquidity is $0.0030 per share and $0.00295 per share if the member (1) has an adding ADV of at least 0.50% of CADV and a removing ADV of at least 0.25% of CADV, or (2) a total ADV of at least 1.00% of CADV.[16]

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believe that the proposed rule is not unfairly discriminatory for the following reasons.

The Exchange believes that that the proposed increased fees for member organizations that remove liquidity in Tapes B and C securities will, taken together, encourage submission of additional liquidity in Tape A, B and Tape C securities to a public exchange in order to qualify for lower fees for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The proposal does not permit unfair discrimination because the proposed fees for removing liquidity would be applied to all similarly situated member organizations and other market participants, who would all be eligible for the same fees on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. The Exchange believes it is not unfairly discriminatory to increase fees for removing liquidity in as the proposed fees would be provided on an equal basis to all member organizations. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

In addition, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Finally, the Exchange believes that it is subject to significant competitive forces, as described above and 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,[17] 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 fee change 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 market participants. 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.'' [18]

Intramarket Competition. The Exchange believes the proposed change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to attract additional orders to the Exchange. The Exchange believes that the proposed changes would encourage market participants to direct their liquidity-removing orders to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage member organizations to send orders, thereby contributing towards a robust and well-balanced market ecosystem. The current and proposed fees would be available to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

[15] *See* Cboe BZX Equities Fee Schedule, available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[16] *See* MEMX Fee Schedule, available at *https://info.memxtrading.com/fee-schedule/.*

[17] 15 U.S.C. 78f(b)(8).

[18] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

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. 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 change 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) [19] 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–NYSE–2023–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2023–18. 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–NYSE–2023–18 and should be submitted on or before April 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06058 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–501, OMB Control No. 3235–0559]

Submission for OMB Review; Comment Request; Extension: Rule 203A–2(e)

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.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension and approval of the previously approved collection of information discussed below.

Rule 203A–2(e),[1] which is entitled ''internet investment advisers,'' exempts from the prohibition on Commission registration an internet investment adviser who provides investment advice to all of its clients exclusively through computer software-based models or applications termed under the rule as ''interactive websites.'' [2] These advisers generally would not meet the statutory thresholds currently set out in section 203A of the Advisers Act [3] because they do not manage $25 million or more in assets and do not advise registered investment companies, or they manage between $25 million and $100 million in assets, do not advise registered investment companies or business development companies, and are required to be registered as investment advisers with the states in which they maintain their principal offices and places of business and are subject to examination as an adviser by such states.[4] Eligibility under rule 203A–2(e) is conditioned on an adviser maintaining in an easily accessible place, for a period of not less than five years from the filing of Form ADV,[5] a

[1] 17 CFR 275.203A–2(e).

[2] Included in rule 203A–2(e) is a limited exception to the interactive website requirement which allows these advisers to provide investment advice to fewer than 15 clients through other means on an annual basis. 17 CFR 275.203A–2(e)(1)(i). The rule also precludes advisers in a control relationship with an SEC-registered internet adviser from registering with the Commission under the common control exemption provided by rule 203A–2(b) (17 CFR 275.203A–2(b)). 17 CFR 275.203A–2(e)(1)(iii).

[3] 15 U.S.C. 80b–3a(a).

[4] *Id.*

[5] The five-year record retention period is a similar recordkeeping retention period as imposed on all advisers under rule 204–2 of the Advisers Act. See rule 204–2 (17 CFR 275.204–2).

record demonstrating that the adviser's advisory business has been conducted through an interactive website in accordance with the rule.[6]

This record maintenance requirement is a ''collection of information'' for PRA purposes. The Commission believes that approximately 231 advisers are registered with the Commission under rule 203A–2(e), which involves a recordkeeping requirement of approximately four burden hours per year per adviser and results in an estimated 924 of total burden hours (4 × 231) for all advisers.

This collection of information is mandatory, as it is used by Commission staff in its examination and oversight program in order to determine continued Commission registration eligibility of advisers registered under this rule. Responses generally are kept confidential pursuant to section 210(b) of the Advisers Act.[7] An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by April 24, 2023 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 20, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06047 Filed 3–23–23; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 275.203A–2(e)(1)(ii).

[7] 15 U.S.C. 80b–10(b).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17816 and #17817; Texas Disaster Number TX–00647]

Administrative Declaration of a Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 03/17/2023.

Incident: Severe Storms and Tornadoes.

Incident Period: 01/24/2023.

DATES: Issued on 03/17/2023.

Physical Loan Application Deadline Date: 05/16/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 12/18/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Harris, Orange.

Contiguous Counties:

Texas: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Waller.

Louisiana: Calcasieu, Cameron.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.625
Homeowners without Credit Available Elsewhere	2.313
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.375
Non-Profit Organizations without Credit Available Elsewhere	2.375
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.375

The number assigned to this disaster for physical damage is 17816 C and for economic injury is 17817 0.

The States which received an EIDL Declaration # are Texas, Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2023–06087 Filed 3–23–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12009]

Notice of a Department of State Sanctions Action

SUMMARY: The Secretary of State has imposed sanctions on one entity.

DATES: The Secretary of State's determination regarding the one entity, and imposition of sanctions on the entity identified in the **SUPPLEMENTARY INFORMATION** section were effective on May 8, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (i) to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Secretary of the Treasury, in consultation with the Secretary of State determined that Section 1(a)(i) of E.O. 14024 shall apply to the marine sector of the Russian Federation economy.

The Secretary of State has determined, pursuant to Section 1(a)(i) of E.O. 14024, that Obshchestvo S Ogranichennoi Otvetstvennostyu Fertoing operates or has operated in the

marine sector of the Russian Federation economy.

Pursuant to E.O. 14024 this entity has been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of this entity subject to U.S. jurisdiction is blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2023–06092 Filed 3–23–23; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 12006]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on 46 individuals and three entities and identified one vessel as blocked property.

DATES: The Secretary of State's determination and imposition of sanctions on the 46 individuals, three entities, and one vessel identified in the **SUPPLEMENTARY INFORMATION** section were effective on December 15, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (i) to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Secretary of the Treasury, in consultation with the Secretary of State, determined that Section 1(a)(i) of E.O. 14024 shall apply to the financial services sector of the Russian Federation economy.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (C) an entity whose property and interests in property are blocked pursuant to this order.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (A) the Government of the Russian Federation.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to this order.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation: (F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners.

The Secretary of State has determined, pursuant to Section 1(a)(i) of E.O. 14024, that Kholdingovaya Kompaniya Interros OOO is operating or has operated in the financial services and aerospace sectors of the Russian Federation economy.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(C) of E.O. 14024, that Vladimir Olegovich Potanin is or hase been a leader, official, senior executive officer, or member of the board of directors of an entity whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(v) of E.O. 14024, that Artem Alexandrovich Uss, Andrey Yuryevich Vorobyev, Maxim Yuryevich Vorobyev, Ekaterina Viktorovna Potanina, Anastasia Vladimirovna Potanina, and Ivan Vladimirovich Potanin are spouses or adult children of persons whose property and interests in property are blocked pursuant to subsection (a)(ii) or (a)(iii) of Section 1 of E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(A) of E.O. 14024, that Aleksandr Vasilyevich Bogomaz, Alexander Viktorovich Gusev, Alexey Vladimirovich Ostrovskiy, Andrey Yuryevich, Vorobyev, Roman Vladimirovich Starovoyt, Vyacheslav Vladimirovich Gladkov, Vasiliy Yuryevich Golubev, Aleksandr Aleksandrovich Avdeyev, Andrey Ivanovich Bocharov, Aleksandr Yuryevich Drozdenko, Oleg Aleksandrovich Kuvshinnikov, Andrey Sergeyevich Nikitin, Andrey Aleksandrovich Travnikov, Denis Vladimirovich Pasler, Maksim Borisovich Egorov, Anton Andreyevich Alikhanov, Dmitriy Igorevich Azarov, Evgeniy Vladimirovich Kuyvashev, Igor Georgiyevich Artamonov, Alexander Viktorovich Uss, Aleksandr Viktorovich Moor, Aleksey Leonidovich Teksler, Viktor Petrovich Tomenko, Vladimir Vladimirovich Vladimirov, Radiy Faritovich Khabirov, Vladimir Viktorovich Uyba, Aysen Sergeyevich Nikolayev, Oleg Alekseyevich Nikolayev, Dmitriy Andreevich Artyukhov, Andrey Removich Belousov, Oleg Valentinovich Belozyorov, Dmitriy Nikolaevich Chernyshenko, Sergey Ottovich Frank, and Aleksey Valerevich Sazanov are or have been leaders, officials, senior executive officers, or members of the board of directors of the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(vii) of E.O. 14024, that Amereus Group PTE LTD is owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(ii)(F) of E.O. 14024, that Andrey Anatolyevich Alekseenko, Gennadiy Oleksandrovych Garkusha, Volodymyr Vitalyovych Lipandin, Oleksii Oleksandrovych Dykiy, Volodymyr Mykhailovych Bobryshev, Kateryna Yuriivna Gubareva, and Ministry of Emergency Situations of the Donetsk People's Republic are responsible for or complicit in, or have directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

The following vessel subject to U.S. jurisdiction is blocked:

Nirvana (IMO: 1011202) (Linked To: Vladimir Olegovich Potanin)

Pursuant to Executive Order 14024 these persons and property have been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of these persons subject to U.S. jurisdiction are blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2023–06090 Filed 3–23–23; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice 12008]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on nine individuals and 14 entities and identified two vessels and one aircraft as blocked property.

DATES: The Secretary of State's determination and imposition of sanctions on the nine individuals, 14 entities, two vessels, and one aircraft identified in the **SUPPLEMENTARY INFORMATION** section were effective on January 26, 2023.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to this order.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (A) the Government of the Russian Federation.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (iii) to be or have been a leader, official, senior executive officer, or member of the board of directors of: (C) an entity

whose property and interests in property are blocked pursuant to this order.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (i) to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The Secretary of the Treasury, in consultation with the Secretary of State, determined that Section 1(a)(i) of E.O. 14024 shall apply to the financial services sector of the Russian Federation economy.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (v) to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (iii) of this section.

The Secretary of State has determined, pursuant to Section 1(a)(vii) of E.O. 14024, that Aktsionernoye Obshchestvo Dalnevostochyy Tsentr Sudostroyeniya I Sudoremonta, Aktsionernoye Obshchestvo Tsentr Sudoremonta Dalzavod, Aktsionernoye Obshchestvo Severo-Vostochnyy Remontnyy Tsentr, Aktsionernoye Obshchestvo Dalnevostchnyy Zavod Zvezda, Aktsionernoye Obshchestvo 179 Sudoremontnyy Zavod, Aktsionernoye Obshchestvo 30 Sudoremontnyy Zavod, Obshchestvo S Organichennoy Otvetstvennostyu Dalnevostochnyy Proektnyy Institut Vostokproektverf, Aktsioneroye Obshchestvo Vladivostokskoye Predpriyatie Elektroradioavtomatika, and Aktsionernoye Obshchestvo Tsentralnoye Konstruktorskoye Byuro Lazurit, MK Interros Invest, Whiteleave Holdings Limited, Saltcliff Trading Limited, and International Limited Liability Company Interros Capital are owned or controlled by, or have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation or any person whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(A) of E.O. 14024, that Dmitriy Nikolaevich Bezrukikh, Arkadiy Aleksandrovich Gostev, Ivan Pavlovitch Prokopenko, Denis Valentinovich Manturov, and Andrey Vladimirovich Burov each are or have been leaders, officials, senior executive officers, or members of the board of directors of the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(iii)(C) of E.O. 14024, that Sergey Leonidovich Batekhin and Sergei Nikolaevich Adonev each are or have been a leader, official, senior executive officer, or member of the board of directors of an entity whose property and interests in property are blocked pursuant to E.O. 14024.

The Secretary of State has determined, pursuant to Section 1(a)(i) of E.O. 14024, that Limited Liability Company Kaleidoskop operates or has operated in the financial services sector of the Russian Federation economy.

The Secretary of State has determined, pursuant to Section 1(a)(v) of E.O. 14024, that Filipp Sergeevich Adonyev and Luka Sergeevich Adonyev are spouses or adult children of a person whose property and interests in property are blocked pursuant to subsection (a)(ii) or (a)(iii) of Section 1 of E.O. 14024.

The following vessels subject to U.S. jurisdiction are blocked:

Addiction (IMO: 1010193) (Linked to Sergei Nikolaevich Adonev) Anatta (IMO: 1011159) (Linked to Sergei Nikolaevich Adonev)

The following aircraft subject to U.S. jurisdiction is blocked:

S5–SAD (Linked to Sergei Nikolaevich Adonev)

Pursuant to E.O. 14024 these persons and property have been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of these persons subject to U.S. jurisdiction is blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2023–06094 Filed 3–23–23; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 12007]

Notice of Department of State Sanctions Actions

SUMMARY: The Secretary of State has imposed sanctions on two individuals.

DATES: The Secretary of State's determination regarding the two individuals, and imposition of sanctions on the individuals identified in the **SUPPLEMENTARY INFORMATION** section were effective on December 9, 2022.

FOR FURTHER INFORMATION CONTACT: Jim Mullinax, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *MullinaxJD@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (ii) to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation: (F) activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners.

Pursuant to Section 1 of E.O. 14024, all property and interests in property that are in the United States, that

hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: (a) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General, or by the Secretary of State, in consultation with the Secretary of the Treasury, and, with respect to subsection (a)(ii) of this section, in consultation with the Attorney General: (vi) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of: (B) any person whose property and interests in property are blocked pursuant to this order.

The Secretary of State has determined, pursuant to Section 1(a)(ii)(F) of E.O. 14024, Lyudmila Nikolaevna Zaitseva is responsible for or complicit in, or has directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

The Secretary of State has determined, pursuant to Section 1(a)(vi)(B) of E.O. 14024, Ochur-Suge Terimovich Mongush has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Ramzan Akhmatovich Kadyrov, a person whose property and interests in property are blocked pursuant to E.O. 14024.

Pursuant to E.O. 14024 these individuals have been added to the Specially Designated Nationals and Blocked Persons List. All property and interests in property of these individuals subject to U.S. jurisdiction is blocked.

Whitney Baird,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2023–06091 Filed 3–23–23; 8:45 am]

BILLING CODE 4710–AE–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from The Atlanta Regional Commission (WB23–21—3/15/23) for permission to use select data from the Board's annual 2013 and 2019 masked Carload Waybill Samples. A copy of this request may be obtained from the Board's website under docket no. WB23–21.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2023–06136 Filed 3–23–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36658]

Rainier Rail LLC—Acquisition and Change of Operators Exemption—City of Tacoma, Washington, Department of Public Works d/b/a Tacoma Rail Mountain Division

Rainier Rail LLC (Rainier Rail), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the City of Tacoma, Department of Public Works d/b/a Tacoma Rail Mountain Division (TRMW),[1] and to operate approximately 41.86 miles of rail line consisting of: (1) an approximately 0.8-mile rail line between milepost 28.6 and milepost 27.8C near McKenna, Wash., currently operated by WRL LLC (WRL) pursuant to a lease with TRMW (the McKenna Segment),[2] and (2) a group of interconnected line segments currently operated by Tacoma Rail extending between milepost 27.8C at McKenna and milepost 13.09 near Frederickson, Wash., from milepost 13.09 near Frederickson to milepost 5.65 near Tacoma, Wash., and from milepost 13.09 near Frederickson to milepost 32 near Eatonville, Wash. (the MD Segments) (collectively with the McKenna Segment, the Lines).

This transaction is related to a concurrently filed petition for exemption in Docket No. FD 36659, *Paul Didelius—Continuance in Control Exemption—Rainier Rail LLC,* in which Paul Didelius seeks Board approval to continue in control of Rainier Rail upon Rainier Rail's becoming a Class III rail carrier.

According to the verified notice, Rainier Rail and TRMW have reached an agreement pursuant to which Rainier Rail will acquire the Lines and, upon consummation of the acquisition transaction, replace WRL and Tacoma Rail as the common carrier service provider on the McKenna Segment, and replace Tacoma Rail as the common carrier service provider on the MD Segments. The verified notice indicates that WRL and Tacoma Rail do not object to the proposed transaction, by which they would be replaced by Rainier Rail as operators on the Lines.

Rainier Rail certifies that the agreement governing the proposed transaction does not include any provision or agreement that would limit Rainier Rail from interchanging with any third-party connecting carrier. Rainier Rail further certifies that its projected annual revenues will not exceed $5 million and will not result in Rainier Rail's becoming a Class I or Class II rail carrier. Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. Rainier Rail states that it has contacted all customers on the Lines to advise them of the planned change in operators.[3]

Rainier Rail states that it plans to commence operations as soon as the Board's authorization processes will allow, subject to the approval of the related petition for exemption. The effective date of this acquisition and change of operators exemption will be held in abeyance pending review of the petition for exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than seven days before

[1] On March 15, 2023, Rainier Rail filed an errata sheet correcting the name and address of the transferor of the Lines.

[2] The City of Tacoma, Wash., Department of Public Utilities d/b/a Tacoma Rail (Tacoma Rail) conducted common carrier operations on the McKenna Segment prior to the commencement of WRL operations in 2021. Rainier Rail notes that WRL did not seek a change of operator exemption when it sought to begin operating over the McKenna Segment in 2021, resulting in Tacoma Rail's continued common carrier status on the McKenna Segment. *See WRL LLC—Lease & Operation Exemption—City of Tacoma Dep't of Pub. Works,* FD 36539 (STB served Sept. 10, 2021). Rainier Rail seeks to terminate both WRL's and Tacoma Rail's common carrier status on the McKenna Segment with this change of operator exemption.

[3] Rainier Rail also states in its verified notice that it intends to furnish each affected customer with a copy of the verified notice at the time of filing.

the exemption becomes effective; a deadline for filing petitions for stay will be established in a future decision that establishes an effective date for this exemption.

All pleadings, referring to Docket No. FD 36658, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rainier Rail's representative, James H.M. Savage, 22 Rockingham Court, Germantown, MD 20874.

According to Rainier Rail, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov*.

Decided: March 21, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2023–06118 Filed 3–23–23; 8:45 am]

BILLING CODE 4915–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at March 16, 2023 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on March 16, 2023, in Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects and took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

DATES: March 16, 2023.

ADDRESSES: Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, and Secretary, telephone: (717) 238–0423, ext. 1312, fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address. See also the Commission website at *www.srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above, these actions were also taken: (1) ratification of one grant amendment and approval of one grant agreement; (2) authorization to release a proposed general permit GP–02 for public comment (3) and actions on 18 regulatory program projects.

Project Applications Approved

1. *Project Sponsor and Facility:* BKV Operating, LLC (North Branch Wyalusing Creek), Middletown Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 2.731 mgd (peak day).

2. *Project Sponsor and Facility:* Dover Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.360 mgd (30-day average) from Well 8 (Docket No. 19911104).

3. *Project Sponsor and Facility:* First Quality Tissue, LLC (Bald Eagle Creek), Allison, Bald Eagle, and Castanea Townships, Clinton County, Pa. Applications for renewal of surface water withdrawal of up to 10.500 mgd (peak day) and consumptive use of up to 2.500 mgd (peak day) (Docket No. 20080303).

4. *Project Sponsor and Facility:* Hardinge Inc., Town of Horseheads, Chemung County, N.Y. Applications for groundwater withdrawals (30-day averages) of up to 0.550 mgd from Well 4 and renewal of 0.580 mgd from Well 5 (Docket No. 19900302).

5. *Project Sponsor:* Helix Ironwood, LLC. Project Facility: Ironwood Generating Station (Pennsy Quarry), South Lebanon Township, Lebanon County, Pa. Applications for renewal of surface water withdrawal, consumptive use and out-of-basin diversion of up to 4.500 mgd (peak day) (Docket No. 19980502).

6. *Project Sponsor and Facility:* Mount Union Municipal Authority, Wayne Township, Mifflin County, Pa. Application for renewal of groundwater withdrawal of up to 0.432 mgd (30-day average) from Well #3—Lemkelde (Docket No. 20070303).

7. *Project Sponsor and Facility:* Repsol Oil & Gas USA, LLC (Fall Brook), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20180303).

8. *Project Sponsor and Facility:* Repsol Oil & Gas USA, LLC (Fellows Creek), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20180304).

9. *Project Sponsor and Facility:* Seneca Resources Company, LLC (Arnot No. 5 Mine Discharge), Bloss Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20180305).

10. *Project Sponsor and Facility:* Seneca Resources Company, LLC (Cowanesque River), Deerfield Township, Tioga County, Pa. Application for renewal with modification to increase the surface water withdrawal by an additional 0.661 mgd, for a total of up to 1.600 mgd (peak day) (Docket No. 20220920).

11. *Project Sponsor and Facility:* Seneca Resources Company, LLC (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.850 mgd (peak day) (Docket No. 20180306).

12. *Project Sponsor:* Springwood, LLC. Project Facility: Bridgewater Golf Club, York Township, York County, Pa. Application for renewal of consumptive use of up to 0.099 mgd (30-day average) (Docket No. 20080307).

13. *Project Sponsor and Facility:* SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20180307).

14. *Project Sponsor and Facility:* Wise Foods, Inc., Berwick Borough, Columbia County, Pa. Application for renewal of groundwater withdrawal of up to 0.860 mgd (30-day average) from Well PW–1 (Docket No. 19920502).

15. *Project Sponsor:* Wynding Brook Inc. Project Facility: Wynding Brook Golf Club, Turbot Township, Northumberland County, Pa. Application for renewal of consumptive use of up to 0.099 mgd (30-day average) (Docket No. 20080304).

Commission-Initiated Project Approval Modification

1. *Project Sponsor:* Knouse Foods Cooperative, Inc. Project Facility: Peach Glen Plant, Tyrone and Huntington Townships, Adams County, and Dickinson Township, Cumberland County, Pa. Conforming the grandfathered amount with the forthcoming determination for groundwater withdrawals (30-day averages) of up to 0.327 mgd combined from Wells 2, 4, 5, 7, 8, 9, 10, and 13, and up to 0.046 mgd from Well 13 (Docket No. 20040912).

Projects Tabled

1. *Project Sponsor:* Biglerville Borough Authority. Project Facility: Biglerville Borough Water Company, Biglerville Borough and Butler Township, Adams County, Pa. Application for renewal of groundwater withdrawal of up to 0.112 mgd (30-day

average) from Well 7 (Docket No. 19930503).

2. *Project Sponsor and Facility:* Dillsburg Area Authority, Carroll Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.460 mgd (30-day average) from Well 7 (Docket No. 20070907).

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: March 21, 2023.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2023–06125 Filed 3–23–23; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2023–0002–N–5]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before May 23, 2023.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2023–0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–0599) in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285, or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: System Safety Program Plan.

OMB Control Number: 2130–0599.

Abstract: In 2020, FRA issued a final rule [1] that requires passenger rail operations to develop and implement a system safety program (SSP) to improve the safety of their operations. Each passenger rail operation has the flexibility to tailor an SSP to its specific railroad operations.

FRA uses the information collected to help ensure that commuter and intercity passenger rail operations establish and implement SSPs to improve the safety of their operations and to confirm compliance with the rule. Each railroad operation should use its SSP to proactively identify and mitigate or eliminate hazards and the resulting risk on its system at an early stage to reduce the number of railroad accidents, incidents, and associated injuries, fatalities, and property damage. A passenger rail operation has the flexibility to tailor an SSP to its specific operations. An SSP will be implemented when FRA approves a passenger rail operation's submitted SSP plan. Under the SSP regulation, FRA will audit a passenger rail operation's compliance with its SSP plan and will use the information collected to ensure compliance with this regulation.

In this 60-day notice, FRA has made multiple adjustments to its estimated paperwork burden, resulting in a reduction of 388 hours, from 2,279 hours in the current inventory to 1,891 hours in the requested inventory. The primary reason for the reduction in the estimated paperwork burden is the expected decrease in the number of responses. Specifically, all passenger rail operations currently subject to the regulation have already submitted their SSP plans, leading to a decrease in the overall PRA burden. This reduction in submissions, reduced by 427 hours, has significantly contributed to the overall decrease in the estimated paperwork burden hours in the requested inventory. FRA has uploaded a table on *regulations.gov* under Docket No. FRA–2023–0002, which displays all the burden adjustments.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 33 passenger rail operations + 1 new passenger rail operation.

Frequency of Submission: On occasion.

[1] 85 FR 12826 (Mar. 4, 2020).

REPORTING BURDEN

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates)[2]
270.101—System safety program; general	The estimated paperwork burden for this regulatory requirement is covered under § 270.103.				
270.103—System safety program plan (SSP plan)—Comprehensive written SSP plan that meets all of this section's requirements and approved by FRA under the process specified in § 270.201.	1 new passenger rail operation.	1.00 plan	40 hours	40.00 hours	$4,389.60
—(e)(6)(iii) Copies of passenger rail operation (PRO) designations to non-profit employee labor organizations.	1 new passenger rail operation.	1.00 copy	2 minutes	.03 hour	2.34
—(e)(6) Designation notifications to employees not represented by non-profit employee labor organizations.	1 new passenger rail operation.	1.00 notice	5 minutes	.08 hour	6.23
—(i)(6) Records of system safety training for employees/contractors/others.	33 passenger rail operations + 1 new passenger rail operation.	510.00 records	15 seconds	2.13 hours	165.95
—(q)(1) Risk-based hazard analysis—Performance of risk-based hazard analyses and furnishing of results of risk-based hazard analyses upon request of FRA/participating part 212 States.	33 passenger rail operations + 1 new passenger rail operation.	34.00 analyses results	20 hours	680.00 hours	52,978.80
—(q)(2) Identification and implementation of risk mitigation methods and furnishing of descriptions of specific risk mitigation methods that address hazards upon request of FRA/participating part 212 States.	33 passenger rail operations + 1 new passenger rail operation.	34.00 mitigation methods descriptions.	10 hours	340.00 hours	26,489.40
—(q)(3) Ad hoc risk-based hazard analysis pursuant to paragraphs (q)(1) and (q)(2) of this section when there are significant operational changes, system extensions, system modifications, or other circumstances that have direct impact on railroad safety.	33 passenger rail operations + 1 new passenger rail operation.	3.00 analyses	10 hours	30.00 hours	2,337.30
—(r)(1) Performance of technology analysis and furnishing of results of system's technology analysis upon request of FRA/participating part 212 States.	33 passenger rail operations + 1 new passenger rail operation.	34.00 results of technology analysis.	10 hours	340.00 hours	26,489.40
270.107(a)—Consultation requirements—Consultation with directly affected employees on SSP plan.	33 passenger rail operations + 1 new passenger rail operation.	6.00 consults (w/labor union reps.).	1 hour	6.00 hours	467.46
—(a)(3)(ii) Notification to directly affected employees of preliminary meeting at least 60 days before being held.	33 passenger rail operations + 1 new passenger rail operation.	6.00 notices	30 minutes	3.00 hours	233.73
—(b) Consultation statements that include service list with name & contact information for labor organization chairpersons & non-union employees who participated in process.	33 passenger rail operations + 1 new passenger rail operation.	6.00 statements	1 hour	6.00 hours	467.46
—(b)(3) Copies of consultation statements to service list individuals.	33 passenger rail operations + 1 new passenger rail operation.	6.00 copies	1 minute	.10 hour	7.79
—(c) Statements from directly affected employees.	FRA anticipates zero submissions during this 3-year ICR period.				
—(d) Consultation requirements for SSP plan amendments.	The estimated paperwork burden for this regulatory requirement is covered under § 270.103.				
270.201(b)—Filing and approval SSP plan—Amended or corrected SSP plan.	33 passenger rail operations + 1 new passenger rail operation.	5.00 amended plans	30 hours	150.00 hours	11,686.50
—(c) Review of amended SSP Plan found deficient and requiring further amendment.	33 passenger rail operations + 1 new passenger rail operation.	1.00 further amended plan.	20 hours	20.00 hours	1,558.20
—(d) Reopened review of initial SSP plan approval for cause stated.	33 passenger rail operations + 1 new passenger rail operation.	1.00 amended plan	30 hours	30.00 hours	2,337.30
270.203—Retention of SSP plan—Retained copies of SSP plans.	33 passenger rail operations + 1 new passenger rail operation.	34.00 copies	10 minutes	5.67 hours	441.75
270.303—Annual internal SSP assessments	33 passenger rail operations + 1 new passenger rail operation.	34.00 evaluations/reports.	2 hours	68.00 hours	5,297.88
—(c) Certification of results of internal assessment by chief safety official.	33 passenger rail operations + 1 new passenger rail operation.	34.00 certification statements.	2 hours	68.00 hours	7,462.32
270.305(b)(1)—External safety audit—Submission of improvement plans in response to results of FRA audit.	33 passenger rail operations + 1 new passenger rail operation.	6.00 plans	12 hours	72.00 hours	7,901.28

REPORTING BURDEN—Continued

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates)[2]
—(b)(2) Improvement plans found deficient by FRA and requiring amendment.	33 passenger rail operations + 1 new passenger rail operation.	2.00 amended plans	10 hours	20.00 hours	1,558.20
—(b)(3) Status report to FRA of implementation of improvements set forth in the improvement plan.	33 passenger rail operations + 1 new passenger rail operation.	2.00 reports	4 hours	8.00 hours	623.28
Subpart E—Fatigue Risk Management Programs.	The estimated paperwork burden for this regulatory requirement is covered under OMB Control Number 2130–0633.				
Appendix B—Additional documents provided to FRA upon request.	33 passenger rail operations + 1 new passenger rail operation.	4.00 documents	15 minutes	1.00 hour	77.91
Appendix C—Written requests to file required submissions electronically.	33 passenger rail operations + 1 new passenger rail operation.	2.00 written requests	15 minutes	.50 hour	38.96
Totals[3]	33 passenger rail operations + 1 new passenger rail operation.	767 responses	N/A	1,891 hours	153,019

Total Estimated Annual Responses: 767.

Total Estimated Annual Burden: 1,891 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $153,019.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

(Authority: 44 U.S.C. 3501–3520)

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2023–06082 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2023–0002–N–4]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before May 23, 2023.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2023–0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–0610) in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285, or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Risk Reduction Program.

OMB Control Number: 2130–0610.

Abstract: In 2020, FRA issued a final rule[1] that requires each Class I freight railroad and each freight railroad with inadequate safety performance (ISP) to

[2] The dollar equivalent cost is derived from the 2021 Surface Transportation Board Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

[3] Totals may not add due to rounding.

[1] 85 FR 9262 (Feb. 18, 2020).

develop and implement a Risk Reduction Program (RRP) to improve the safety of its operations. RRP is a comprehensive, system-oriented approach to safety that determines a railroad operation's level of risk by identifying and analyzing applicable hazards, and develops plans to mitigate, if not eliminate, that risk. Each railroad has flexibility to tailor an RRP to its specific railroad operations. Each railroad must implement its RRP under a written, FRA-approved RRP plan and conduct an annual internal assessment of its RRP, with FRA also auditing railroads' RRPs.

The information collected under this regulation will be used by railroads, and FRA, to improve safety through structured, proactive processes that systematically evaluate railroad safety hazards on their systems and manage the risks associated with those hazards to help reduce the number and rates of railroad accidents/incidents, injuries, and fatalities.

In this 60-day notice, FRA has made multiple adjustments to its estimated paperwork burden, resulting in a reduction of 1,131 hours, from 61,825 hours in the current inventory to 60,694 hours in the requested inventory. The primary reason for the reduction in the estimated paperwork burden is the expected decrease in the number of responses. Specifically, all Class I freight railroads have already submitted their RRP plans, leading to a decrease in the overall PRA burden, resulting in no anticipated submissions under certain regulatory sections. This reduction in Class I submissions, reduced by 1,075 hours, significantly contributed to the overall decrease in the estimated paperwork burden hours in the requested inventory. FRA has uploaded a table on *regulations.gov,* under Docket No. FRA–2023–0002 which displays all the burden adjustments.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 7 Class I and 15 ISP railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates)[2]
271.13(c)—Determination of inadequate safety performance (ISP)—Qualitative assessment—Notice to employees of possible ISP identification by FRA.	15 railroads	5.00 notices	3 hours	15.00	$1,168.65
—Employee confidential comments to FRA regarding RR possible ISP identification.	125 employees	5.00 comments	30 minutes	2.50	194.78
—RR Documentation to FRA refuting possible ISP identification.	15 railroads	5.00 documents	8 hours	40.00	3,116.40
—(f) and (g) Petition for reconsideration of ISP determination and petition to discontinue compliance with this part.	15 railroads	.67 petition	16 hours	10.72	835.20
271.101—Risk Reduction Programs (RRPs)—Class I railroads.	The estimated paperwork burden for this regulatory requirement is covered under §§ 271.103, 271.105, 271.107, 271.109, and 271.111.				
271.103—RRP hazard management program (HMP)	7 railroads	2.33 HMP analyses	3,360 hours	7,838.80	609,941.81
271.105—RRP safety performance evaluation (SPE): surveys/evaluations.	7 railroads	2.33 SPE evaluations.	147 hours	342.51	26,684.95
	7 railroads	2.33 assessments	1,060.15 hours	2,470.15	192,449.39
271.107—Safety Outreach—communications/reports	7 railroads	44,333.00 communications.	1 hour	44,333.00	2,636,040.18
	7 railroads	28.00 communications.	30 minutes	14.00	1,090.74
271.109—Technology analysis and technology implementation plans.	7 railroads	2.33 reports	10 hours	23.30	1,815.30
271.111—RRP implementation training—programs/training, employees/records.	7 railroads	1,400.00 records of trained employees.	3 minutes	70.00	5,453.70
271.113—Involvement of RR employees	The estimated paperwork burden for this regulatory requirement is covered under §§ 271.401 and 271.405.				
271.101(c)—Communication by Class I RRs that host passenger train services with RRs subject to FRA System Safety Program Requirements.	7 railroads	40.00 communications/consultations.	2 hours	80.00	6,232.80
—(d) Identification/communication w/entities performing/utilizing significant safety-related services—Class I RRs.	7 railroads	212.00 communications/consultations.	1 hour	212.00	16,516.92
—RR Identification/further communication with contractors performing/utilizing significant safety related services—Class I RRs.	7 railroads	1,488.00 communications/consultations.	1 hour	1,488.00	115,930.08
271.101(a)—Risk Reduction Programs (RRPs)—ISP railroads	The estimated paperwork burden for this regulatory requirement is covered under §§ 271.103, 271.105, 271.107, 271.109, and 271.111.				
271.103—RRP hazard management program (HMP)	15 railroads	5.00 HMPs	240 hours	1,200.00	93,492.00
271.105—RRP safety performance evaluation (SPE): surveys/evaluations.	15 railroads	5.00 surveys	14.73 hours	73.65	5,738.07
	15 railroads	5.00 SPEs	51.11 hours	255.55	19,909.90
271.107—Safety Outreach—communications/reports	15 railroads	5.00 communications.	1 hour	5.00	297.30
	15 railroads	5.00 reports	3 hours	15.00	1,168.65

[2] The dollar equivalent cost is derived from the 2021 Surface Transportation Board Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) [2]
271.109—Technology analysis and technology implementation plans.	15 railroads	5.00 plans	5 hours	25.00	1,947.75
271.111—RRP implementation training—Records *(Note: The associated burdens related to training were appropriately calculated as economic costs of the regulatory requirement.).*	15 railroads	50.00 records of trained employees.	3 minutes	2.50	194.78
271.113—Involvement of RR employees	The estimated paperwork burden for this regulatory requirement is covered under subparts B and E of part 271.				
271.101(d)—ISPs—Identification/communication w/entities performing significant safety-related services.	15 railroads	5.00 communications/consultations.	2 hours	10.00	779.10
271.201/203—Written risk reduction program plans (RRP plans)—Adoption and implementation of RRP plans—Class I.	The PRA burden associated with this requirement has been completed.				
—Written RRP plans—ISP RRs	15 railroads	5.00 RRP plans	96 hours	480.00	37,396.80
271.207—RR Good faith consultation w/directly affected employees—Class I RRs.	The PRA burden associated with this requirement has been completed.				
—RR Notification to non-represented employees of consultation meeting—Class I RRs.	The PRA burden associated with this requirement has been completed.				
—RR Good faith consultations/notices: ISP RRs	15 railroads	5.00 consults/notices	20 hours	100.00	7,791.00
—Submission of detailed consultation statements along w/ RRP plans by Class I RRs.	The PRA burden associated with this requirement has been completed.				
—Submission of detailed consultation statements along w/ RRP plan by ISPs.	15 railroads	5.00 consults/statements.	40 hours	200.00	15,582.00
—Copy of RRP plan—Class I RRs + ISP RRs	The PRA burden associated with this requirement has been completed.				
—Consultation Statement to Service List Individuals—Class I RRs + ISP RRs.	The PRA burden associated with this requirement has been completed.				
—Statements from directly affected employees—Class I RRs	The PRA burden associated with this requirement has been completed.				
—Statements from directly affected employees—ISP RRs	15 railroads	12.00 statements	1 hour	12.00	934.92
271.209—Substantive amendments to RRP plan—Class I RRs.	7 railroads	1.00 amended written plan.	8 hours	8.00	623.28
—Substantive amendments to RRP plan—ISP RRs	15 railroads	.67 amended written plan.	8 hours	5.36	417.60
271.301—Filing of RRP plan w/FRA—Class I RRs	The PRA burden associated with this requirement has been completed.				
—Filing of RRP plan w/FRA—ISP RRs	15 railroads	5.00 filed plans	2 hours	10.00	779.10
—Class I RR corrected RRP plan	The PRA burden associated with this requirement has been completed.				
—FRA requested Class I RR consultation with directly affected employees regarding substantive corrections/ changes to RRP plan.	The PRA burden associated with this requirement has been completed.				
—ISP RR corrected RRP plan	15 railroads	1.00 RRP plan	2 hours	2.00	155.82
—FRA requested ISP RR further consultation with directly affected employees regarding substantive amendment to RRP plan.	15 railroads	1.00 consult/statement.	1 hour	1.00	77.91
271.303—Amendments consultation w/directly affected employees on substantive amendments to RRP plan—Class I RRs and ISP RRs.	22 railroads (Class I + ISP).	2.00 consults	1 hour	2.00	155.82
—Employee statement to FRA on RR RRP plan substantive amendments where agreement could not be reached.	22 railroads (Class I + ISP).	2.00 employee statements.	30 minutes	1.00	77.91
—Filed amended RRP plan—Class I RRs	7 railroads	1.00 plan	30 minutes	.50	38.96
—Filed amended RRP plan—ISP RRs	15 railroads	.67 plan	30 minutes	.34	26.49
—Amended RRP plan disapproved by FRA & requested correction—Class I RRs and ISPs.	22 railroads (Class I + ISP).	1.00 corrected RRP plan.	2 hours	2.00	155.82
271.307—Retention of RRP plans—Copies of RRP plan/ amendments by RR at system/division headquarters—Class I and ISP RRs.	22 railroads (Class I + ISP).	2.00 plan copies	10 minutes	.33	25.71
217.401/403—Annual internal assessment/improvement plans—Class I RRs.	7 railroads	7.00 assessments/ improvement plans.	120 hours	840.00	65,444.40
—Annual internal assessment/improvement plans—ISP RRs	22 railroads	5.00 assessments/ improvement plans.	32 hours	160.00	12,465.60

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates)[2]
271.405—Internal assessment report copy to FRA—Class I RRs.	7 railroads	7.00 reports	8 hours	56.00	4,362.96
—Internal assessment submit copy to FRA within 60 days of completion—ISP RRs.	22 railroads	5.00 reports	2 hours	10.00	779.10
271.501/.503—External audits—Response to FRA's written notice *(Note: The associated burdens related to audit were appropriately calculated as economic costs of the regulatory requirement.)*.	22 railroads	7.33 responses	4 hours	29.32	2,284.32
Appendix A—Request by FRA for additional information/documents to determine whether railroad has met good faith and best effort consultation requirements of section 271.207.	The PRA burden associated with this requirement has been completed.				
—Further railroad consultation w/employees after determination by FRA that railroad did not use good faith/best efforts.	The PRA burden associated with this requirement has been completed.				
—Meeting to discuss administrative details of consultation processes during the time between initial meeting and applicability date—Class I RRs.	The PRA burden associated with this requirement has been completed.				
—Meeting to discuss administrative details of consultation processes during the time between initial meeting and applicability date—ISP RRs.	15 railroads	7.00 meetings/consults.	1 hour	7.00	545.37
—Notification to non-represented employees of good faith consultation process—ISP RRs.	15 railroads	600.00 notices	15 minutes	150.00	11,686.50
—Draft RRP plan proposal to employees—ISP RRs	15 railroads	20.00 proposals/copies.	2 hours	40.00	3,116.40
—Employee comments on RRP plan draft proposal	2,000 employees	60.00 comments	1 hour	60.00	4,674.60
Subpart G—Fatigue Risk Management Programs	The estimated paperwork burden for this regulatory requirement is covered under OMB Control Number 2130–0633.				
Appendix B—Request to FRA for electronic submission or FRA review of written materials.	FRA anticipates zero railroad submissions during this 3-year ICR period.				
Totals[3]	22 railroads	48,374 responses	N/A	60,694	3,910,597

Total Estimated Annual Responses: 48,374.

Total Estimated Annual Burden: 60,694 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $3,910,597.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

(Authority: 44 U.S.C. 3501–3520)

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2023–06084 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–06–P

[3] Totals may not add due to rounding.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2023–0002–N–6]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA will seek approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before May 23, 2023.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on regulations.gov to the docket, Docket No. FRA–2023–0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–0560) in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–1320.12.

Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal statutes and regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Use of Locomotive Horns at Highway-Rail Grade Crossings.

OMB Control Number: 2130–0560.

Abstract: FRA plans to publish in the **Federal Register** a final administrative rule on its procedures for service of documents in railroad safety enforcement proceedings and other administrative updates. This rule will update FRA's railroad safety enforcement procedures and rules of practice to require electronic service of documents. Specifically, this rule modernizes 49 CFR part 209's provisions and other FRA procedures regarding service to require service through electronic methods of transmission. For example, with respect to updating FRA's rules of practice to require electronic service of documents, this rule will remove the certified mail requirements in 49 CFR part 222 and provide for electronic submission of documents to FRA and other affected parties (such as railroads and State agencies).

This 60-day notice provides the public with the opportunity to comment on the modifications made to eliminate the need for certified mail in sections 222.39, 222.43, 222.47, and 222.51. These adjustments will also decrease the burden hours by 47 hours, reducing the current inventory's 7,254 hours to 7,207 hours in the requesting inventory. Additionally, this rule will reduce the certified mailed cost by $5,000 annually to the affected parties.

The other provisions under parts 209, 211, 212, 216, 231, 233, 235, 238, and 239 with respect to electronic methods of transmission requirements will not impact the current PRA inventory under multiple OMB control numbers [1] since the affected parties are already submitting their written products electronically to FRA.

Type of Request: Revision of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 784 railroads/645 public authorities.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate [2]
222.15—How does one obtain a waiver of a provision of this regulation?—Petition for waiver.	784 railroads + 645 public Authorities.	2 petitions	4 hours	8.00	$623.28
222.17—How can a State agency become a recognized State agency?	FRA anticipates zero applications, as FRA has yet to receive any submissions under this provision.				
222.39(b)—How is a quiet zone established?—Public authority application to FRA—Applications for quiet zone approval.	645 public authorities	15 applications	80 hours	1,200.00	75,204.00
—(b)(1)(i) Updated Grade Crossing Inventory Form (includes requirements under § 222.49(a)).	645 public authorities	75 updated forms	30 minutes	37.50	2,350.13
—(b)(1)(iii) Diagnostic team review of proposed quiet zone crossings.	645 public authorities	3 team reviews	16 hours	48.00	3,739.68
—(b)(3)(i) 60-day comment period—Copies of quiet zone application (Revised requirement).	645 public authorities	90 copies	1 minute	1.50	94.01
—(b)(3)(ii) 60-day comment period—Comments to FRA on Applications for quiet zone approval.	784 railroads	30 comments	1.5 hours	45.00	3,505.95
—(b)(3)(iii) 60-day comment period—Written no-comment statements.	FRA anticipates zero written statements.				
222.43(a)(1)—What notices and other information are required to create or continue a quiet zone?—Written notice of public authority's intent to create new quiet zone and notification to required parties (Revised requirement).	645 public authorities, 784 railroads, and state agencies.	60 notices + 180 notifications.	40 hours + 1 minute.	2,403.00	150,596.01
—(b)(3) Notice of Intent—60-day comment period.	784 railroads and state agencies.	120 comments	1.5 hours	180.00	14,023.80

[1] Covered under multiple OMB Control Numbers, such as, 2130–0006, 2130–0504, 2130–0509, 2130–0544, 2130–0545, and 2130–0594.

[2] FRA used the Surface Transportation Board's 2021 Full-Year Wage A&B data series as the basis for each cost calculation. For professional and administrative staff, the hourly wage rate is $77.91 per hour ($44.52 * 1.75). For transportation (train and engine) staff, the hourly wage rate is $62.67 per hour ($35.81 * 1.75).

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate [2]
—(d) Notice of Quiet Zone Establishment—Written notice of quiet zone establishment and notification to required parties.	645 public authorities	60 notices + 360 notifications.	40 hours + 10 minutes.	2,460.00	154,168.20
—(d)(2)(ii)(A) Required contents—Public authority to include a copy of the quiet zone calculator web page in its notice of quiet zone establishment.	The estimated paperwork burden for this requirement is covered under § 222.43(d).				
—(d)(2)(v)–(vi) Required contents—Updated Grade Crossing Inventory Forms (includes requirements under § 222.49(a)).	645 public authorities	300 updated forms	30 minutes	150.00	9,400.50
—(d)(2)(xi) Required contents—Certification by chief executive officer that the information submitted by the public authority is accurate.	645 public authorities	60 certifications	5 minutes	5.00	313.35
222.47—What periodic updates are required?—Written affirmation to FRA that Supplementary or Alternative Safety Measures (SSMs or ASMs) conform to the requirements of Appendices A and B or the terms of the Quiet Zone approval (Revised requirement).	645 public authorities	180 written affirmations + 1,080 copies.	30 minutes + 1 minute.	108.00	6,768.36
—(a)(2) and (b)(2) Updated Grade Crossing Inventory Forms (includes requirements under § 222.49(a)).	645 public authorities	900 updated forms	30 minutes	450.00	28,201.50
222.51(a)–(b)—Under what conditions will quiet zone status be terminated?—Written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone.	645 public Authorities ...	15 written commitments	5 hours	75.00	4,700.25
—(c) Review at FRA's initiative—Comments from interested parties during FRA's review of quiet zone status.	645 public authorities, railroads, state agencies, and the general public.	2 comments	30 minutes	1.00	62.67
—(d) Termination by the public authority—Written notice of quiet zone termination (Revised requirement).	FRA estimates zero public authorities will elect to terminate a quiet zone that they only recently designated or established, and so there will be no need to provide any written notices of termination. Consequently, there is no estimated paperwork burden associated with this requirement.				
—(e) Notification of termination (Revised requirement).	FRA estimates that there will be zero quiet zones terminated under the provisions of this section, and that there will be no need to provide written notifications to relevant parties. Consequently, there is no estimated paperwork burden associated with this requirement.				
222.55(b)—How are new supplementary or alternative safety measures approved?—Request for FRA approval of new SSMs or ASMs for quiet zones.	645 public authorities and interested parties.	1 letter	30 minutes	.50	31.34
—(d) Request for SSM/ASM approval upon completion of demonstration of proposed new SSMs or ASMs.	645 public authorities and interested parties.	1 letter	30 minutes	.50	31.34
222.57(a)—Can parties seek review of the Associate Administrator's actions?—A public authority or other interested party may petition FRA for review of any decision by the Associate Administrator granting or denying an application for approval of a new SSM or ASM under § 222.55 (plus copies to the required parties).	645 public authorities and interested parties.	1 petition + 6 copies	2 hours + 2 minutes.	2.20	137.87
—(b) Request for FRA reconsideration of disapproval of application for Quiet Zone approval and copies of requests to the required parties.	645 public authorities	1 petition letter + 6 copies.	2 hours + 2 minutes.	2.20	137.87
—(b) Additional documents submitted to FRA to support petition for reconsideration.	645 public authorities	1 additional document and set of materials.	2 hours	2.00	125.34
—(b) Letter to FRA requesting an informal hearing.	645 public authorities	1 letter	30 minutes	.50	31.34
222.59(b)—When may a wayside horn be used?—Written notice of use of wayside horn at grade crossing within a quiet zone plus copies of the written notices to the required parties.	645 public authorities	5 notices + 30 copies ...	2.5 hours + 2 minutes.	13.50	846.05
—(c) Written notice of wayside horn use located outside a quiet zone.	645 public authorities + 784 railroads.	5 notices + 30 copies ...	2.5 hours + 2 minutes.	13.50	846.05
Appendix B to Part 222—Alternative Safety Measures—Non-engineering ASMs—Programmed Enforcement.	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				
Appendix B to Part 222—Alternative Safety Measures—Non-engineering ASMs—Photo Enforcement.	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate [2]
229.129(c)(10)—Locomotive horn—Written Reports and Records of Locomotive Horn Testing.	The one-time testing requirement under this provision for locomotives built before September 18, 2016 has been fulfilled. However, any estimated burden for testing records will be covered under OMB control number 2130–0004 under 229.23.				
Total	784 railroads + 645 public authorities.	3,620 responses	N/A	7,207	455,939

Total Estimated Annual Responses: 3,620.

Total Estimated Annual Burden: 7,207 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $455,939.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2023–06083 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 24, 2023.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 6, 2023.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data			
21524–N	TEA Technologies Inc	180.205(c), 180.205(f), 180.205(g)	To authorize the transportation in commerce of composites tubes that have been requalified using modal acoustic emission (MAE) in lieu of volumetric and internal visual examination. (modes 1, 2, 3, 4, 5).
21529–N	Skykraft Pty Ltd	173.302a(a)(1)	To authorize the one time, one way, transportation in commerce of non-DOT specification cylinders containing argon. (mode 1).
21533–N	Samsung SDI. Co., Ltd	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft. (mode 4).
21534–N	Techknowserv Corp	180.205(g)	To authorize the transportation in commerce of certain cylinders that have been requalified using acoustic emissions testing in lieu of hydrostatic and internal visual methods. (modes 1, 2, 3, 4, 5).

[FR Doc. 2023–06050 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 24, 2023.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 06, 2023.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
16572–M	Samsung Austin Semiconductor, LLC.	173.158(f)	To modify the special permit to authorize a Division 5.1 subsidiary hazard for the hazardous material.
21353–N	Lanxess Canada Co	173.24(f)(1)(i), 173.32(e)(1)	To authorize the transportation in commerce of a defective portable tank, containing a residue of a Division 4.2 material, via motor vehicle.
21407–N	Toyota Motor Corporation	173.185(a)(1)	To authorize the transportation in commerce of prototype lithium batteries via cargo-only aircraft.
21409–N	Evonik Corporation	172.407(c)(1)	To authorize the transportation in commerce of certain oxidizers where the labels are less than 100 mm by 100 mm.
21428–N	Livewire EV LLC	172.101(j), 173.220(d), 173.185(a)(1)	To authorize the transportation in commerce of prototype lithium batteries, and those installed in vehicles, via cargo-only aircraft.
21457–N	Astra Space Operations, Inc.	173.302a(a)(1)	To authorize the transportation in commerce of non-DOT specification cylinders incorporated into a propellant management system within a spacecraft (satellite).
21458–N	Astra Space Operations, Inc.	173.302	To authorize the transportation in commerce of non-DOT specification cylinders incorporated into a propellant management system within a spacecraft (satellite).
21460–N	Amerex Corporation	173.309(c)	To authorize the transportation in commerce of non-specification cylinders exceeding 900 mL in capacity and containing a liquefied gas as fire extinguishers.
21467–N	General Motors LLC	172.101(j)	To authorize the transportation in commerce of lithium ion battery assemblies exceeding 35 kg net weight aboard cargo-only aircraft.
21505–N	National Air Cargo Group, Inc.	172.204(c)(3), 172.101(j), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce by cargo only aircraft of Class 1 explosives which are forbidden or exceed quantities presently authorized.
21514–N	National Aeronautics and Space Administration.	173.301(a)(1), 173.301(h)(3), 173.302(a)(1), 173.302(f)(1).	To authorize the transportation in commerce of filled non-DOT specification cylinders without pressure relief devices.
Special Permits Data—Denied			
21508–N	Versum Materials US, LLC	172.204(c)(3), 172.101(j)(1), 173.27(b)(2).	To authorize the transportation of certain hazardous materials forbidden aboard cargo-only aircraft.
Special Permits Data—Withdrawn			

[FR Doc. 2023–06052 Filed 3–23–23; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 10, 2023.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 6, 2023.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		Special Permits Data	
10887–M	National Aeronautics and Space Administration.	173.314	To modify the special permit to authorize an updated rupture disc and relief valve and updated transportation routes. (mode 1).
11818–M	Lockheed Martin Corporation.	172.101(j), 172.101(j)(1), 173.301(f), 173.304a(a)(2).	To modify the special permit to authorize an additional hazardous material. (modes 1, 3, 4).
15773–M	Roche Molecular Systems, Inc.	173.242(e)(1)	To modify the special permit to remove the requirement that the special permit accompany the shipment. (modes 1, 3).
16061–M	Cirba Solutions Services US, LLC.	172.102(c)(1), 172.200, 172.300, 172.400, 172.500, 172.600, 172.700(a), 173.159a(c)(2), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to remove the lithium battery marking requirement. (modes 1, 3).
20356–M	Tesla, Inc	172.101(j)	To modify the special permit to authorize an additional cell type. (mode 4).
20493–M	Tesla, Inc	172.101(j)	To modify the special permit to authorize an additional cell type. (mode 4).
20567–M	Omni Tanker Pty. Ltd	107.503(b), 107.503(c), 172.102(c)(3), 173.241, 173.242, 173.243, 178.345–1, 178.347–1, 178.348–1.	To modify the special permit to authorize additional inner barrier materials. (mode 1).
20936–M	CO_2 Exchange LLC	171.2(k), 172.200, 172.300, 172.400, 172.700(a).	To modify the special permit to authorize a larger cylinder, a smaller marking, and more cylinders per package. (modes 1, 2).
21359–M	Thales Alenia Space	172.101(j), 172.300, 172.400, 173.301(f), 173.302a(a)(1), 173.304a(a)(2), 173.56, 173.185(a)(1).	To modify the special permit to authorize cargo vessel. (mode 3).

[FR Doc. 2023–06051 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the 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.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On March 21, 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 authority listed below.

Individuals

1. BUKEY, Murat (Latin: BÜKEY, Murat) (a.k.a. "MURAT, Recep"), Turkey; DOB 02 Jan 1971; POB Izmir, Turkey; nationality Turkey; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport U21720683 (Turkey) expires 12 Apr 2029; alt. Passport U01789726 (Turkey) expires 30 Mar 2021; National ID No. 38119667258 (Turkey) (individual) [NPWMD] [IFSR] (Linked To: PAIDAR, Amanallah).

   Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters" ("E.O. 13382"), 70 FR 38567, 3 CFR, 2005 Comp., p. 170, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Amanallah PAIDAR, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. MAHMOUDI, Asghar (Arabic: اصغر محمودی) (a.k.a. MAHMOODI, Asghar), Iran; DOB 05 Jul 1964; POB Kaleybar, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 5198918954 (Iran) (individual) [NPWMD] [IFSR] (Linked To: PAIDAR, Amanallah).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Amanallah PAIDAR, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. PAIDAR, Amanallah (Arabic: امان اله پایدار) (a.k.a. AMANOLLAH, Paydar Mohammad; a.k.a. PAYDAR, Aman Ilah; a.k.a. PAYDAR, Amanollah; a.k.a. "AMIRI, Ahmad"; a.k.a. "AZARIAN, Amin"; a.k.a. "MURAT, Rajib"), Iran; DOB 08 Nov 1958; POB Rudsar, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2690705257 (Iran) (individual) [NPWMD] [IFSR] (Linked To: DEFENSE TECHNOLOGY AND SCIENCE RESEARCH CENTER).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, DEFENSE TECHNOLOGY AND SCIENCE RESEARCH CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Entities

1. DEFENSE TECHNOLOGY AND SCIENCE RESEARCH CENTER (a.k.a. INSTITUTE FOR DEFENSE EDUCATION AND RESEARCH; a.k.a. MOASSESE AMOZESH VA TAHGHIGHATI; a.k.a. "DTSRC"; a.k.a. "MAVT CO."), Pasdaran Avenue, P.O. Box 19585/777, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Target Type Government Entity [NPWMD] [IFSR] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by,

or acting or purporting to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. FARAZAN INDUSTRIAL ENGINEERING, INC. (a.k.a. FARAZAN CO., LTD.; a.k.a. FARAZAN COMPANY), Apt. 8, 4th Floor, No. 6, 2Th. Alley, Konoor Street, Motahari Avenue, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR] (Linked To: DEFENSE TECHNOLOGY AND SCIENCE RESEARCH CENTER).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, DEFENSE TECHNOLOGY AND SCIENCE RESEARCH CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. OZONE HAVACILIK VE SAVUNMA SANAYI TICARET ANONIM SIRKETI (a.k.a. OZONE AIRCRAFT AND DEFENSE INDUSTRY LLC; a.k.a. OZONE AVIATION AND DEFENSE INDUSTRY INC.; a.k.a. OZONE HAVACILIK VE SAVUNMA SAN. TIC. AS; a.k.a. ''OZONE HOBBY''), Umurbey Mah. Sehitler Cad. No Key Plaza: 18/42, Izmir, Turkey; Inonu Mah 4137 sok. No 12/12, Menemen, Izmir, Turkey; website *www.ozonehobby.com;* Additional Sanctions Information—Subject to Secondary Sanctions; Organization Established Date 09 Jul 2018; Tax ID No. 6500100199 (Turkey) [NPWMD] [IFSR] (Linked To: BUKEY, Murat).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, Murat BUKEY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. SELIN TECHNIC CO (a.k.a. SELIN TECHNIC KISH COMPANY), No. 118 NE. 1st Floor, Venoos Complex, Kish, Iran; Africa Avenue, between Mirdamad Avenue and Zafar Avenue, Yazdapanah Street, Number 40, Unit 7, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR] (Linked To: PAIDAR, Amanallah).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Amanallah PAIDAR, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: March 21, 2023.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–06105 Filed 3–23–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2023–24, Credit for Production of Electricity From Advanced Nuclear Power Facilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Notice 2023–24, Credit for Production of Electricity from Advanced Nuclear Power Facilities.

DATES: Written comments should be received on or before May 23, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please reference the information collection's ''OMB Control Number: 1545–2000'' or Notice 2023–24, in the Subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Sara Covington (202) 317–5744, at Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice 2023–24 Credit for Production of Electricity from Advanced Nuclear Power Facilities.

OMB Number: 1545–2000.

Abstract: This notice obsoletes notice 2013–68, which superseded notice 2006–40, and provides the time and manner for certain taxpayer to apply for an allocation of the national megawatt capacity limitation under § 45J of the Internal Revenue Code. Additionally, this notice provides the election procedure for a qualified public entity to transfer the credit to an eligible project partner. The information collected for that procedure will be used to determine the portion of the § 45J credits to which an eligible project partner is entitled. An eligible project partner will use the election statement to claim the § 45J credits. The likely respondents are corporations and partnerships.

Current Actions: The title and burden estimates have changed from OMB previously approved submission.

Type of Review: Reinstatement with change of a previously approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 80.

Estimated Time per Respondent: 5.07 hours.

Estimated Total Annual Burden Hours: 406.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 20, 2023.

Molly J. Stasko,

IRS Tax Analyst.

[FR Doc. 2023–06025 Filed 3–23–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee April 18, 2023, Public Meeting

ACTION: Notice of meeting.

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for April 18, 2023.

Date: April 18, 2023.

Time: 8 a.m. to 4:15 p.m. (ET).

Location: 2nd Floor Conference Rooms; United States Mint; 801 9th Street NW; Washington, DC 20220.

Subject: Review and discussion of candidate designs for the Congressional Gold Medal commemorating the servicemembers who perished in Afghanistan on August 26, 2021, during the evacuation of citizens of the United States and Afghan allies at Hamid Karzai International Airport; review and discussion of candidate designs for the Greatest Generation Commemorative Coin Program; review and discussion of candidate designs for the Harriet Tubman Bicentennial Commemorative Coin Program; and review and discussion of candidate designs for the Congressional Gold Medal to the members of the Women's Army Corps who were assigned to the 6888th Central Postal Directory Battalion, known as the ''Six Triple Eight.''

Interested members of the public may either attend the meeting in person or dial in to listen to the meeting at (888) 330–1716; Access Code: 1137147.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

Members of the public interested in attending the meeting in person will be admitted into the meeting room on a first-come, first serve basis as space is limited. In addition, all persons entering a United States Mint facility must adhere to building security protocols. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility, and are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband. The United States Mint Police Officer conducting the screening will evaluate whether an item may enter into or exit from a facility based upon Federal law, Treasury policy, United States Mint policy, and local operating procedures; and all prohibited and unauthorized items will be subject to confiscation and disposal. Members of the public will need to provide a government ID (*e.g.,* driver's license) to enter the building.

For members of the public interested in listening in or attending in person, this is a reminder that the public attendance is for listening purposes only. Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to *info@ccac.gov.*

For Accommodation Request: If you need an accommodation to listen to the CCAC meeting, please contact the Office of Equal Employment Opportunity by April 7, 2023. You can submit an email request to *ReasonableAccommodations@usmint.treas.gov* or call 202–354–7260 or 1–888–646–8369 (TTY).

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2023–06063 Filed 3–23–23; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Tribal and Indian Affairs, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. 10., that the Advisory Committee on Tribal and Indian Affairs (ACTIA) will meet on April 4, 5 and 6, 2023 at the Seven Feathers Hotel Resort, 146 Chief Miwaleta Lane, Canyonville, OR 97417. The meeting sessions will begin, and end as follows:

Dates	Times
April 4, 2023	11 a.m.–7:30 p.m.—Eastern Standard Time (EST).
April 5, 2023	11 a.m.–7:30 p.m. EST.
April 6, 2023	11 a.m.–3 p.m. EST.

The meeting is open to the public who may attend in person or virtually during the meeting times listed.

The purpose of the Committee is to advise the Secretary on all matters relating to Indian tribes, tribal organizations, Native Hawaiian organizations, and Native American Veterans. This includes advising the Secretary on the administration of healthcare services and benefits to American Indians/Alaska Natives (AI/AN) and Native Hawaiian Veterans; thereby assessing those needs and whether VA is meeting them.

On April 4, 2023, the agenda will include opening remarks from the Committee Chair, Executive Sponsor and other VA officials. There will be updates on the PACT Act, Tribal HUD–VASH, co-pay exemptions for Native American Veterans, Veterans Health Administration/Indian Health Service (IHS) Memorandum of Understanding, IHS/Tribal health program reimbursement agreements and purchased referred care.

On April 5, 2023, the agenda will include updates and a panel discussion with senior officials from VA and IHS. Subsequent updates and briefings will be provided on the White House Council on Native American Affairs Health Committee; Tribal Veterans Representation Expansion Project; Veterans Benefits Administration Claims events in Indian Country; Native American Direct Loan; and the Native American Veteran Program. There will also be a discussion and presentation on ''Operation Tiny Home'' for Veterans.

On April 6, 2023, the Committee will receive a briefing on AI/AN Data for Veteran suicide/behavioral health. This will be followed by a discussion on the transition plan for the Committee with new and outgoing members. The Committee will then hold open discussion on topics relevant to the Committee and address follow-up and action items including dates for next meeting.

On all three days, there will be a comment period for those members of the public who have provided a written summary.

Members of the public can register to attend the meetings at the link below.

Meeting Link: https://www.zoomgov.com/meeting/register/vJIsfuyqrjgsGH0-wxw3P5_P_DoCIbkPoL0.

Individuals who wish to speak are invited to submit a 1–2-page summary of their comments no later than March 31, 2023, for inclusion in the official meeting record. Members of the public may submit written statements for the Committee's review to Peter Vicaire, at *Peter.Vicaire@va.gov.* Any member of the public seeking additional information should contact Peter Vicaire at the email address above or by calling 612–558–7744.

Dated: March 20, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–06078 Filed 3–23–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. 10, that the Advisory Committee on Former Prisoners of War will conduct a hybrid meeting (in-person and virtual) on April 26, 2023 through April 27, 2023 at various locations shown below.

The meetings will begin and end as follows, to include public participation:

Date	Time	Location	Open session
April 26, 2023	8:00 a.m.–4:00 p.m. (EST)	Lafayette City Center, 2 Avenue de Lafayette, Boston, MA 02111 or via Microsoft TEAMS Link.	Yes.
April 27, 2023	8:00 a.m.–9:00 a.m. (EST)	Boston VA Medical Center, 150 South Huntington Ave., Jamaica Plain, MA campus or via Microsoft TEAMS Link.	Yes.
April 27, 2023	9:00 a.m.–12:00 p.m. (EST)	Boston VA Medical Center	No.
April 27, 2023	1:30 p.m.–5:00 p.m. (EST)	Boston VA Medical Center or via Microsoft TEAMS Link	Yes.

Sessions are open to the public, except when the Committee is conducting a tour of VA facilities. Tours of VA facilities are closed, to protect Veterans' privacy and personal information, by 5 U.S.C. 552b(c)(6).

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38 U.S.C., for Veterans who are Former Prisoners of War (FPOW), and to make recommendations on the needs of such Veterans for compensation, health care, rehabilitation, and memorial benefits.

On Wednesday, April 26th, the Committee will assemble in open session from 8:00 a.m. to 4:00 p.m. for discussion and briefings from Veterans Affairs Central Office, Veterans Benefits Administration and Veterans Health Administration officials.

On Thursday, April 27th, the Committee will assemble in open session from 8:30 a.m. to 9:00 a.m. for discussion and briefings from National Cemetery Administration officials. The Committee will then convene a closed session from 9:00 a.m.–12:00 p.m. to tour the Boston VA Medical Center—Jamaica Plains. The Committee will reconvene in open session at 1:30 p.m.; and the meeting will adjourn at 5:00 p.m.

Any member of the public who wishes to speak at the public forum are invited to submit a 1–2-page commentary for the Committee's review and inclusion in official meeting records.

Any member seeking additional information should contact, Designated Federal Officer, Department of Veterans Affairs, Advisory Committee on Former Prisoners of War at *Julian.Wright2@va.gov* no later than April 25, 2023. Public stakeholders attending the meeting should be prepared to present identification to enter government facilities and comply with health and safety protocols for that facility.

Additionally, any member of the public who wishes to participate in the virtual meeting may use the following Microsoft TEAMS Meeting Link:

Join On Your Computer or Mobile App: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDVlMTYzMjItMDA0MS00ZjA1LThiM2YtNzNlYzkxMzczOGFi%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22b857b6c6-44d8-46b4-8041-6e7d50b9890a%22%7d

Meeting ID: 247 578 443 565

Passcode: 7Fdafh

Download Teams | Join on the web

Or call-in (audio only) +1 872–701–0185,,616157593# United States, Chicago

Phone Conference ID: 616 157 593#

Dated: March 20, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–06079 Filed 3–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0921]

Agency Information Collection Activity: Approval for Collection of Information for the Planning and Execution of National and Regional Veterans Day Observations

AGENCY: National Veterans Outreach Office (NVO), U.S. Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: The National Veterans Outreach Office of the U.S. Department of Veterans Affairs (VA) is announcing an opportunity for public comment on the agency's proposed collection of certain information. 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 23, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to National Veterans Outreach Office (002D), Office of Public and Intergovernmental Affairs, U.S. Department of Veterans Affairs, 810 Vermont Avenue NW, Room 915G, Washington, DC 20420 or email to

Terri.Evans2@va.gov. Please refer to ''2900–0921'' 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 ''VAF 0918d'' 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, NVO invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of NVO's functions, including whether the information will have practical utility; (2) the accuracy of NVO'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: 44 U.S.C. 3501–21. Under the PRA of 1995 (Pub. L. 104–13; 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. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

Title: National and Regional Veterans Day Planning Collection.

OMB Control Number: 2900–0921.

Type of Review: Approval of a proposed collection.

Abstract: Since 1954, the U.S. Department of Veterans Affairs (VA) has overseen the National Veterans Day Observance at Arlington National Cemetery (ANC) to honor the men and women who have served and continue to serve in the U.S. Uniformed Services during war and peacetime. Hundreds of military Veterans from communities throughout America and leaders from across the federal government, including the President of the United States or his designee, participate in the National Veterans Day Observance at ANC each year. In addition, tens of thousands of others participate in VA-approved regional Veterans Day events.

The National Veterans Outreach Office is the VA team that plans and executes the National Veterans Day Observance. VA Forms 0918d, 0918e, 0918f, and 0918g are the instruments of collection for this activity. The information collected is used to collaborate with regional partners and select VA-approved Veterans Day observances across the country; evaluate Veteran-serving organizations for potential membership onto the Veterans Day National Committee; collect annual dues from Veterans Day National Committee members, per the committee's bylaws; and determine the number of custom Veterans Day lapel pins, National Observance invitations and bench seat tickets are required by each Veterans Day National Committee member organization. The collection requires the public to provide only the information necessary to support the planning efforts.

Affected Public: State and local governments; Veteran-serving non-profit organizations.

Estimated Annual Burden: 28 hours.

Estimated Average Burden per Respondent: 11 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 158.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, U.S. Department of Veterans Affairs.

[FR Doc. 2023–06035 Filed 3–23–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 57 March 24, 2023

Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program: Test Procedure for Commercial and Industrial Pumps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE–2020–BT–TP–0032]

RIN 1904–AE53

Energy Conservation Program: Test Procedure for Commercial and Industrial Pumps

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

ACTION: Final rule.

SUMMARY: This final rule amends the test procedure for commercial and industrial pumps (''pumps'') to incorporate by reference relevant portions of the latest version of the industry testing standard, expands the scope of clean water pumps covered by this test procedure, revises calculation methods for pumps sold with motors and controls to better represent field energy use, adds and updates certain definitions, and allows the use of alternative efficiency determination methods for the rating and certification of pumps.

DATES: The effective date of this rule is April 24, 2023. The amendments will be mandatory for product testing starting September 20, 2023.

The incorporation by reference of certain materials listed in the rule is approved by the Director of the Federal Register on April 24, 2023. The incorporation by reference of certain other materials listed in this rule was approved by the Director of the Federal Register on January 25, 2016.

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

A link to the docket web page can be found at *www.regulations.gov/docket/EERE-2020-BT-TP-0032.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Nolan Brickwood, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4498. Email: *Nolan.Brickwood@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE incorporates by reference the following industry standards into part 431:

HI 40.6–2021, ''Methods For Rotodynamic Pump Efficiency Testing'';

ANSI/HI 9.6.1–2017, ''Rotodynamic Pumps Guideline for NPSH Margin'';

ANSI/HI 9.6.6–2016, ''Rotodynamic Pumps for Pump Piping'';

ANSI/HI 9.8–2018, ''Rotodynamic Pumps for Pump Intake Design'';

ANSI/HI 14.1–14.2–2019, ''Rotodynamic Pumps for Nomenclature and Definitions'';

HI Engineering Data Book—Second Edition;

Copies of HI 40.6–2021, ANSI/HI 9.6.1–2017, ANSI/HI 9.6.6–2016, ANSI/HI 9.8–2018, ANSI/HI 14.1–14.2–2019, and the HI Engineering Data Book—Second Edition, can be obtained from the Hydraulics Institute (HI), 300 Interpace Parkway, 3rd Bldg. A Floor, Parsippany, NJ 07054, (973) 267–9700, or online at: *www.Pumps.org.*

ANSI/ASME MFC–5M–1985 (Reaffirmed 2006), ''Measurement of Liquid Flow in Closed Conduits Using Transit-Time Ultrasonic Flowmeters'' (''ANSI/ASME MFC–5M–1985'');

ASME MFC–3M–2004 (Reaffirmed 2017), ''Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi'' (''ASME MFC–3M–2004'');

ASME MFC–8M–2001 (Reaffirmed 2011), ''Fluid Flow in Closed Conduits: Connections for Pressure Signal Transmissions Between Primary and Secondary Devices'';

ASME MFC–12M–2006 (Reaffirmed 2014), ''Measurement of Fluid Flow in Closed Conduits Using Multiport Averaging Pitot Primary Elements'' (''ASME MFC–12M–2006'');

ASME MFC–16–2014, ''Measurement of Liquid Flow in Closed Conduits with Electromagnetic Flowmeters'';

ASME MFC–22–2007 (Reaffirmed 2014), ''Measurement of Liquid by Turbine Flowmeters'' (''ASME MFC–22–2007'');

Copies of ANSI/ASME MFC–5M–1985, ASME MFC–3M–2004, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, and ASME MFC–22–2007 can be obtained from the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016–5990, (800) 843–2763, or online at: *www.asme.org.*

ANSI/AWWA E103–2015, ''Horizontal and Vertical Line-Shaft Pumps'' (''AWWA E103–2015'');

Copies of AWWA E103–2015 can be obtained from the American Water Works Association (AWWA), 6666 W Quincy Avenue, Denver, CO 80235, (303) 794–7711, or online at: *www.awwa.org.*

CSA C390–10, ''Test methods, marking requirements, and energy efficiency levels for three-phase induction motors'';

Copies of CSA C390–10 can be obtained from the Canadian Standards Association (CSA), 178 Rexdale Blvd., Toronto, ON, Canada M9W 1R3, (800) 463–6727, or online at *www.csagroup.org.*

IEEE 112–2017, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators'';

IEEE 114–2010, ''IEEE Standard Test Procedure for Single-Phase Induction Motors'';

Copies of IEEE 112–2017 and IEEE 114–2010 can be obtained from the Institute of Electrical and Electronics Engineers (IEEE), 445 Hoes Lane, Piscataway, NJ 08854–4141, (732) 981–0060, or online at *standards.ieee.org.*

ISO 1438:2017(E), ''Hydrometry—Open channel flow measurement using thin-plate weirs'' (''ISO 1438:2017'');

ISO 2186:2007(E), ''Fluid flow in closed conduits—Connections for pressure signal transmissions between primary and secondary elements'' (''ISO 2186:2007'');

ISO 2715:2017(E), ''Liquid hydrocarbons—Volumetric measurement by turbine flowmeter'' (''ISO 2715:2017'');

ISO 3354:2008(E), ''Measurement of clean water flow in closed conduits—Velocity-area method using current-meters in full conduits and under regular flow conditions'' (''ISO 3354:2008'');

ISO 3966:2020(E), ''Measurement of fluid flow in closed conduits—Velocity area method using Pitot static tubes'' (''ISO 3996:2020'');

ISO 5167–1:2003(E), ''Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full—Part 1: General

principles and requirements'' (''ISO 5167–1:2003'');

ISO 5198:1987(E), ''Centrifugal, mixed flow and axial pumps—Code for hydraulic performance tests—Precision class'' (''ISO 5198:1987'');

ISO 6416:2017(E), ''Hydrometry—Measurement of discharge by the ultrasonic transit time (time of flight) method'' (''ISO 6416:2017'');

ISO 20456:2017(E), ''Measurement of fluid flow in closed conduits—Guidance for the use of electromagnetic flowmeters for conductive liquids'' (''ISO 20456:2017'');

Copies of ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017 can be obtained from the International Organization for Standardization (ISO), Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, +41 22 749 01 11, or online at: *www.iso.org.*

For a further discussion of these standards, see section IV.N of this document.

Table of Contents

I. Authority and Background
A. Authority
B. Background
II. Synopsis of the Final Rule
III. Discussion
A. Scope of Applicability
1. Pumps Not Designed for Clean Water Applications
2. Small Vertical Inline Pumps
3. Other Clean Water Pump Categories
4. Scope Limitations
B. Definitions
1. Removing Certain References to Volute
2. HI Pump Class References
3. Bowl Diameter
4. Small Vertical Inline Pumps
5. Between-Bearing Pumps
6. Vertical Turbine Pump
7. Radially-Split, Multi-Stage Horizontal Pumps
8. Close-Coupled and Mechanically-Coupled Pumps
C. Updates to Industry Standards
1. ANSI/HI 40.6
2. ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014
D. Metric
E. Amendments to Test Method
1. Nominal Speed
2. Testing of Multi-Stage Pumps
3. Load Profile
4. Pumps With BEP at Run-Out
5. Calibration of Measurement Equipment
6. Calculations and Rounding
F. Calculation-Based and Testing-Based Options According to Pump Configuration (Table 1 of Appendix A)
1. Hybrid Mapping Approach
2. Calculation Method for Pumps Sold With Induction Motors and Controls
3. Calculation Method for Pumps Sold With Inverter-Only Motors (With or Without Controls)
4. Pumps Sold With Submersible Motors
G. Test Procedure for SVIL Pumps
1. Applicable Motor Regulations
2. SVIL Paired With Motors Less Than 0.25 Horsepower
3. SVIL Paired With Other Motors Not Covered by DOE Regulations
4. Part-Load Loss Curves
H. Test Procedure for Other Expanded Scope Pumps
1. Testing Other Expanded Scope Pumps to HI 40.6
2. Testing Other Expanded Scope Pumps With Motors
I. Sampling Plan, AEDMs, Enforcement Provisions, and Basic Model
1. Sampling Plan for Determining Represented Values
2. Alternative Efficiency Determination Methods
3. Enforcement Provisions
4. Basic Model Definition
J. Representations of Energy Use and Energy Efficiency
K. Test Procedure Costs and Harmonization
1. Test Procedure Costs and Impact
2. Harmonization With Industry Standards
L. Compliance Date
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Orders 12866 and 13563
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act of 1995
D. Review Under the National Environmental Policy Act of 1969
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 12630
J. Review Under Treasury and General Government Appropriations Act, 2001
K. Review Under Executive Order 13211
L. Review Under Section 32 of the Federal Energy Administration Act of 1974
M. Congressional Notification
N. Description of Materials Incorporated by Reference
V. Approval of the Office of the Secretary

I. Authority and Background

Commercial and industrial pumps (collectively, ''pumps'') are included in the list of ''covered equipment'' for which the U.S. Department of Energy (''DOE'') is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(A)) DOE's energy conservation standards and test procedures for pumps are currently prescribed at title 10 of the Code of Federal Regulations (''CFR''), § 431.464, and 10 CFR part 431 subpart Y appendix A (''appendix A''). The following sections discuss DOE's authority to establish test procedures for pumps and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C of EPCA,[2] established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes pumps, the subject of this document. (42 U.S.C. 6311(1)(A))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and 42 U.S.C. 6316(b); 42 U.S.C. 6297). DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

provisions of EPCA. (42 U.S.C. 6316(b)(2)(D).

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a given type of covered equipment during a representative average use cycle (as determined by the Secretary) and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered equipment, including pumps, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6314(a)(1)

In addition, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register**, and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)). If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6314(a)(1)(A)(ii))

DOE is publishing this final rule in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6314(b)(1))

B. Background

DOE established its test procedure for pumps in a final rule published on January 25, 2016. 81 FR 4086 (''January 2016 Final Rule'').[3] The January 2016 Final Rule established definitions for the terms ''pump,''[4] ''driver,''[5] and ''controls,''[6] and identified several categories and configurations of pumps. The pumps test procedure currently incorporates by reference the Hydraulic Institute (''HI'') Standard 40.6–2014, ''Methods for Rotodynamic Pump Efficiency Testing'' (''HI 40.6–2014''), along with several modifications to that testing method related to measuring the hydraulic power, shaft power, and electric input power of pumps, inclusive of electric motors and any continuous or non-continuous controls.[7]

On September 28, 2020, DOE published an early assessment review request for information (''RFI'') to determine whether to proceed with a rulemaking to amend the test procedure for pumps. 85 FR 60734 (''September 2020 Early Assessment RFI''). DOE subsequently published an RFI on April 16, 2021 seeking further data and information pertaining to the test procedure for pumps. 86 FR 20075 (''April 2021 RFI''). On April 11, 2022, DOE published a test procedure notice of proposed rulemaking presenting DOE's proposals to amend the pumps test procedure. 87 FR 21268 (''April 2022 NOPR''). DOE held a public meeting related to the April 2022 NOPR on April 26, 2022 (''NOPR public meeting'').

DOE received comments in response to the April 2022 NOPR from the interested parties listed in Table I.1.

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE APRIL 2022 NOPR

Commenter(s)	Reference in this final rule	Comment No. in the docket	Commenter type
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council.	Efficiency Advocates	30	Efficiency Organizations.
ebm-pabst, Inc	ebm-pabst	n/a	Motor Manufacturer.
Grundfos Americas Corporation	Grundfos	31	Manufacturer.
Hydraulic Institute	HI	33	Trade Association.
Northwest Energy Efficiency Alliance	NEEA	34	Efficiency Organization.
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; collectively, the California Investor-Owned Utilities.	CA IOUs	32	Utilities.
People's Republic of China	China	29	Country.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[8] To the extent that interested parties have provided written comments that are substantively consistent with any oral comments provided during the NOPR public meeting, DOE cites the written comments throughout this final rule. Any oral comments provided during the webinar that are not substantively addressed by written comments are summarized and cited separately throughout this final rule.

II. Synopsis of the Final Rule

In this final rule, DOE amends §§ 431.462, 431.463, 431.464, and appendix A as follows:

[3] On March 23, 2016, DOE published a correction to the January 2016 Final Rule to correct the placement of the product-specific enforcement provisions related to pumps under 10 CFR 429.134(i). 81 FR 15426.

[4] A ''pump'' means equipment designed to move liquids (which may include entrained gases, free solids, and totally dissolved solids) by physical or mechanical action and includes a bare pump and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. (10 CFR 431.462)

[5] A ''driver'' provides mechanical input to drive a bare pump directly or through the use of mechanical equipment. Electric motors, internal combustion engines, and gas/steam turbines are examples of drivers. (10 CFR 431.462)

[6] A ''control'' is used to operate a driver. (10 CFR 431.462)

[7] A ''continuous control'' is a control that adjusts the speed of the pump driver continuously over the driver operating speed range in response to incremental changes in the required pump flow, head, or power output. A ''non-continuous control'' is a control that adjusts the speed of a driver to one of a discrete number of non-continuous preset operating speeds and does not respond to incremental reductions in the required pump flow, head, or power output. 10 CFR 431.462.

[8] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for pumps. (Docket No. EERE–2020–BT–TP–0032, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

(1) Expand the scope of the test procedure to include additional clean water pumps, specifically radially-split, multi-stage, horizontal (''RSH'') pumps; radially-split, multi-stage, horizontal in-line diffuser casing (''RSHIL'') pumps; radially-split, multi-stage, horizontal, end-suction diffuser casing (''RSHES'') pumps; small vertical in-line (''SVIL'') pumps; vertical turbine (''VT'') pumps; pumps sold with 6-pole induction motors or motors with design speeds greater than or equal to 960 rpm and less than 1,440 rpm; and end-suction pumps not covered by the current test procedure;

(2) Clarify the applicability of the design temperature range and modify the range parameters;

(3) Add and modify certain definitions in 10 CFR 431.462 to accommodate the expansion of the test procedure's scope and to clarify existing definitions;

(4) Incorporate by reference HI 40.6–2021 into 10 CFR 431.463 and remove language in the DOE test procedure that is redundant with HI 40.6–2021;

(5) Clarify certain test provisions for pumps with BEP at run-out;

(6) Update part-load loss factor equation coefficients in the calculation method for pumps sold with induction motors and controls;

(7) Provide a calculation method for pumps sold with inverter-only motors;

(8) Update the test procedure for submersible pumps to address DOE's coverage of submersible motors;

(9) Add provisions for testing and rating RSH, SVIL, VT pumps, and pumps sold with a 6-pole induction motors or with design speeds greater than or equal to 960 rpm and less than 1,440 rpm; and

(10) Allow use of alternative efficiency determination methods (''AEDMs'').

The adopted amendments are summarized in Table II.1 compared to the current test procedure provision prior to the amendment, as well as the reason for the adopted change.

TABLE II.1—SUMMARY OF CHANGES IN THE AMENDED TEST PROCEDURE

DOE test procedure prior to amendment	Amended test procedure	Attribution
Does not include in the scope of the test procedure RSHIL, RSHES, SVIL, or VT pumps; pumps distributed in commerce with nominal speeds of 1,200 rpm; or all end-suction pumps.	Includes in the scope of the test procedure RSHIL, RSHES, SVIL, and VT pumps; pumps distributed in commerce with nominal speeds of 1,200 rpm; and all end-suction pumps.	Improved representativeness.
Includes a scope limitation of a design temperature range from 14 to 248 °F.	Specifies a scope limitation of a pump whose design temperature range falls wholly or partially into the range from 15 to 250 °F.	Improved clarity and enforceability.
Includes definitions for pump categories within the current scope of the test procedure.	Includes definitions for additional pump categories and clarifications to the definitions for some existing pump categories.	Required for scope expansion; improved enforceability.
Incorporates by reference HI 40.6–2014 for determining the constant load pump energy index (''PEI_{CL}'') and the variable load pump energy index (''PEI_{VL}'') value of pumps.	Incorporates by reference HI 40.6–2021 for determining the PEI_{CL} and the PEI_{VL} value of pumps.	Updates to applicable industry test standard.
Provides example pump categories for certain pump definitions by referencing ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014.	Removes example pump categories from all relevant definitions.	Simplification of the test procedure.
References ANSI/HI 2.1–2.2–2014 to define ''intermediate bowl'' within the definition for bowl diameter.	Incorporates a definition for ''intermediate bowl'' in the definition for bowl diameter, removing the reference to ANSI/HI 2.1–2.2–2014.	Simplification of the test procedure.
Does not include test provisions for multistage pumps other than RSV and ST.	Includes specifications for stages for testing for RSHIL, RSHES, and VT pumps.	Required for scope expansion.
Includes provisions for pumps with BEP at run-out	Clarifies provisions for pumps with BEP at run-out	Improved repeatability and reproducibility.
References a section of HI 40.6–2014 related to calibration of measurement equipment.	Clarifies the applicable test provisions in HI 40.6–2021 for calibration of measurement equipment.	Improved repeatability and reproducibility.
Includes a calculation method for pumps sold with induction motors and controls.	Includes revised part-load loss factor equation coefficients for motors 50 hp and above.	Improved representativeness.
Does not provide a calculation method for pumps sold with inverter-only motors.	Provides a calculation method for pumps sold with inverter-only motors.	Reduced burden.
Includes test provisions specific to submersible pumps based on default motor efficiency.	Includes test provisions specific to submersible pumps based on DOE's coverage of submersible motors.	Allows for seamless update if or when DOE finalizes submersible motor coverage.
Does not include test provisions specific to SVILs	Includes test provisions specific to SVILs	Required for scope expansion.
Does not include provisions for testing pumps distributed in commerce with 6-pole motors or motors with design speeds greater than or equal to 960 rpm and less than 1,440 rpm.	Includes provisions for testing pumps sold with 6-pole motors or motors with design speeds greater than or equal to 960 rpm and less than 1,440 rpm.	Improved representativeness.
Does not allow use of AEDMs	Allows use of AEDMs	Reduced burden.

DOE has determined that the amendments described in section III of this final rule would not alter the measured efficiency [9] of commercial and industrial pumps that are currently included in the scope of DOE's energy conservation standards for pumps. Therefore, DOE does not expect that retesting or recertification would be necessary for currently certified pumps as a result of DOE's adoption of the amendments to the test procedures. Additionally, DOE has determined that the amendments would not increase the cost of testing for these pumps.

For pumps that are not currently within the scope of the test procedure but are subject to the expansion of scope adopted by this final rule, use of the DOE test procedure as amended by this final rule is not required until the compliance date of any energy conservation standards that DOE may ultimately establish for such pumps as part of a separate rulemaking assessing the technological feasibility and economic justification for such standards.

The effective date for the amended test procedures adopted in this final rule is 30 days after publication of this document in the **Federal Register**. Representations of energy use or energy efficiency must be based on testing in accordance with the amended test procedures beginning 180 days after the publication of this final rule. (42 U.S.C. 6314(d))

Discussion of DOE's actions are addressed in detail in section III of this final rule.

III. Discussion

A. Scope of Applicability

The current DOE test procedure for pumps applies to five categories of ''clean water pumps'' with specific defined characteristics and excludes certain defined categories [10] of pumps. 10 CFR 431.464(a)(1).

DOE defines ''clean water pump'' as a pump that is designed for use in pumping water with a maximum non-absorbent free solid content of 0.016 pounds per cubic foot, and with a maximum dissolved solid content of 3.1 pounds per cubic foot, provided that the total gas content of the water does not exceed the saturation volume and disregarding any additives necessary to prevent the water from freezing at a minimum of 14 °F. 10 CFR 431.462.

The five categories of clean water pumps to which the current test procedure applies are: end-suction close-coupled (''ESCC''); end-suction frame mounted/own bearings (''ESFM''); in-line (''IL''); radially-split, multi-stage, vertical, in-line diffuser casing (''RSV''); and submersible turbine (''ST''). 10 CFR 431.464(a)(1)(i). The defined characteristics specify limits on flow rate, maximum head, design temperature range, motor type, bowl diameter, and speed.[11] 10 CFR 431.464(a)(1)(ii). In the context of the energy conservation standards, pumps are further delineated into equipment classes based on nominal speed of rotation and operating mode (*i.e.,* constant load or variable load). 10 CFR 431.465.

In the April 2022 NOPR, DOE proposed expanding the test procedure scope to include BB, RSH, RSHIL, RSHES, SVIL, and VT pumps, as well as pumps sold with 6-pole induction motors or motors with design speeds between 960 rpm and 1,440 rpm; ST pumps with bowl diameters greater than 6 inches; and end-suction pumps not covered by the current test procedure. 87 FR 21268, 21272.

The CA IOUs, Efficiency Advocates, and NEEA supported DOE's proposal to expand the test procedure scope to include additional pumps. (NEEA, No. 34 at p. 2; Efficiency Advocates, No. 30 at pp. 1–3; CA IOUs, No. 32 at p. 1) NEEA commented that sales reported to its commercial and industrial pumps efficiency program indicated these pumps should be included in the scope of the test procedure and that this would avoid pumps outside the scope from competing with regulated pumps without the costs of complying with the efficiency standards and labeling requirements. (NEEA, No. 34 at p. 2)

HI stated that the proposed scope expansion could be tested to HI 40.6–2021 but commented that DOE should consider the benefits of including larger pumps, since these pumps are often sold in much smaller volumes and the capital and manufacturing impacts will be disproportionate compared to energy savings for the current scope. (HI, No. 33 at p. 1) HI also stated that these larger pumps may require different testing infrastructure and instrumentation and that this would require substantial capital investment for testing. *Id.*

DOE addresses HI's comments in the following sections relative to specific pump categories. The following sections also provide additional information and responses to stakeholder comments specific to the pumps that DOE considered for inclusion in the test procedure scope.

1. Pumps Not Designed for Clean Water Applications

The scope of the current DOE test procedure, as described previously, does not include either chemical process or wastewater pumps. *See* 10 CFR 431.464(a)(1)(i). Chemical process pumps are designed to pump fluids other than water, and wastewater pumps are designed for water with a higher level of free solids than clean water pumps. In the April 2022 NOPR, in response to comments received on the April 2021 RFI, DOE explained that although certain non-clean water pumps may be used in clean water applications, DOE expects the number of non-clean water pumps used in the clean water applications to be relatively small. 87 FR 21268, 21275. DOE noted that the relevant industry standards do not provide requirements for testing pumps designed for non-clean water applications. *Id.* To test non-clean water pumps, DOE would need to reference or develop an alternate test procedure. *Id.* While this test procedure might enable comparison between non-clean water pumps, it is unlikely that a clean water and non-clean water test procedure would provide comparable results. *Id.*

[9] DOE is updating the induction motor coefficients (see section III.F.2 of this document) which will change the calculated rating for pumps sold with induction motors. However, DOE expects the updated calculations will provide a PEI equal to or less than that determined using the current induction motor coefficients. Since the pump would be considered more efficient, manufacturers would not have to recertify their basic models, although they could voluntarily choose to do so. As such, DOE has determined that the updated induction motor coefficients will not increase manufacturer burden.

[10] The excluded categories of pumps are fire pumps; self-priming pumps; prime-assist pumps; magnet driven pumps; pumps designed to be used in a nuclear facility subject to 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities''; and pumps meeting the design and construction requirements set forth in Military Specifications: MIL–P–17639F, ''Pumps, Centrifugal, Miscellaneous Service, Naval Shipboard Use'' (as amended); MIL–P–17881D, ''Pumps, Centrifugal, Boiler Feed, (Multi-Stage)'' (as amended); MIL–P–17840C, ''Pumps, Centrifugal, Close-Coupled, Navy Standard (For Surface Ship Application)'' (as amended); MIL–P–18682D, ''Pump, Centrifugal, Main Condenser Circulating, Naval Shipboard'' (as amended); and MIL–P–18472G, ''Pumps, Centrifugal, Condensate, Feed Booster, Waste Heat Boiler, And Distilling Plant'' (as amended). 10 CFR 431.464(a)(1)(iii).

[11] More specifically, these characteristics include: (A) flow rate of 25 gallons per minute or greater at best efficiency point (''BEP'') and full impeller diameter; (B) maximum head of 459 feet at BEP and full impeller diameter and the number of stages required for testing; (C) design temperature range from 14 to 248 °F; (D) designed to operate with either (1) a 2- or 4-pole induction motor, or (2) a non-induction motor with a speed of rotation operating range that includes speeds of rotation between 2,880 and 4,320 revolutions per minute (''rpm'') and/or 1,440 and 2,160 rpm, and in either case, the driver and impeller must rotate at the same speed; (E) For ST pumps, a 6-inch or smaller bowl diameter; and (F) For ESCC and ESFM pumps, a specific speed less than or equal to 5,000 when calculated using U.S. customary units. 10 CFR 431.464(a)(1)(ii).

Additionally, DOE noted that non-clean water pumps, specifically wastewater pumps, must meet specific performance requirements to ensure the health of the U.S. population. 87 FR 21268, 21275. DOE would need to carefully evaluate how the performance of non-clean water pumps could be impacted by energy conservation standards and ensure that public health and safety would not be negatively affected. *Id.* As such, additional investigation would be needed to understand the market, energy savings potential, test procedure implications, and performance requirements of non-clean water pumps (*i.e.,* chemical process and wastewater). *Id.* DOE noted that because ''C-value'' is specified in the energy conservation standard (*see* 10 CFR 431.465(b)(4)) and C-value is required for determining PEI_{CL} and $PEI_{VL,}$ there would be limited use of the test procedure without corresponding standards. *Id.* Therefore, in the April 2022 NOPR, DOE tentatively determined to continue to limit the applicability of the test procedure to clean water pumps. *Id.*

In response to the April 2022 NOPR, NEEA requested that DOE add ASME B73 [12] compliant pumps in the clean water definition. (NEEA, No. 34 at p. 2–4) NEEA explained that pumps that meet the requirements of ANSI/ASME Standard B73.1–2012 or ANSI/ASME B73.2–2002 are often used in pumping clean water. *Id.* NEEA further stated that these pumps are often advertised as serving clean water functions and have been certified for that end use—some for drinking water components. Since these pumps overlap and compete directly with covered pumps in clean water applications, NEEA argued that they potentially create a compliance loophole. *Id.* NEEA suggested that DOE no longer consider ASME B73 certified pumps to be excluded from the clean water definition and clarified that they did not believe DOE would need to change the current or proposed scope of pumps to do so. (NEEA, No. 34 at p. 4) NEEA stated that ending the exclusion was sufficient, and that in doing so DOE would only be including those ASME B73 certified pumps that advertise as clean water pumps and compete directly with clean water pumps. *Id.*

In response to NEEA, any pump designed for non-clean water applications would also be capable of pumping clean water. However, DOE notes that the definition of clean water pump specifies that the pump is *designed for use* in pumping [clean water] (emphasis added). *See* 10 CFR 431.462. DOE further notes that the ASME B73 pumps have additional design requirements for maximum shaft deflections, bearing frame lubrication, sealing, and vibration limits because they are designed for use in chemical process applications.

Because of the additional design requirements applicable to ASME B73 pumps, it is unlikely that a manufacturer of clean water pumps would certify to ASME B73 as a way to avoid DOE energy conservation standards. DOE market research indicates that the prices of ASME B73 pumps are typically substantially higher than the clean water pumps that are included in this rulemaking, presumably due to these additional design requirements. Therefore, DOE does not expect end users to specifically purchase ASME B73 pumps for use as replacements for clean water pumps currently covered by DOE energy conservation standards. Finally, DOE is not aware of ASME B73 pumps being distributed in commerce as substitutes for clean water pumps to any significant degree. Given these considerations, DOE is not amending the definition of clean water pump to specifically include pumps certified under the ASME B73 designation in this rulemaking.

The Efficiency Advocates encouraged DOE to investigate ways to accelerate adoption of variable speed drives (''VSDs'') in nonclean water applications, stating that pumps in chemical and wastewater sectors are estimated to use more than 27 and 17 TWh/yr of electricity respectively. (Efficiency Advocates, No. 30 at p. 4) They cited a 2020 study by NEEA showing that VSDs provided average energy savings of 23 percent and 43 percent for constant- and variable-load clean water pumping applications, respectively. *Id.* The Efficiency Advocates concluded from this study that there are significant potential savings from using VSDs, noting that wastewater flow can vary significantly over time and may benefit especially. *Id.* Efficiency Advocates encouraged DOE to develop the test procedure for VSDs in non-clean water applications in order to facilitate greater market adoption of VSDs in wastewater and chemical process pumps and capture the potential energy-savings benefits.

In response to the Efficiency Advocates, DOE reiterates its discussion in the April 2022 NOPR that DOE expects the number of non-clean water pumps used in the clean water applications to be relatively small; that the scope of HI 40.6–2014, which is currently incorporated by reference into the DOE test procedure, includes clean water pumps only, and that it is unlikely that a clean water and non-clean water test procedure would provide comparable results. 87 FR 21268, 21275. DOE emphasizes that waste water pumps, in particular, are required to pump slurries/solids. DOE is incorporating by reference HI 40.6–2021, which is only applicable to clean water pumps. If DOE were to include waste water and other clean water pumps in its scope of coverage, it would need to evaluate the applicability and repeatability of industry test procedures for these pumps. DOE has not had an opportunity to appropriately evaluate these test procedures or conduct its own testing on non-clean water pumps during this test procedure rulemaking; however, DOE may consider evaluating these pumps in a future rulemaking.

In summary, the scope of the test procedure as amended by this final rule continues to exclude both chemical process and wastewater pumps.

Regarding VSDs, DOE notes that its current test procedure accommodates pumps with variable speed operation by providing calculations for determining variable load PEI (''PEI_{VL}''). (*See* Appendix A to subpart Y of part 431.) However, as discussed, DOE is continuing to exclude wastewater pumps from the scope of the test procedure.

2. Small Vertical Inline Pumps

As discussed, the scope of the current DOE test procedure is limited to five categories of pumps designed for clean water applications. 10 CFR 431.464(a)(1)(i). One of these categories is IL pumps, which are limited to a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at best efficiency point (''BEP'') [13] and full impeller diameter, and in which liquid is discharged in a plane perpendicular to the impeller shaft. 10 CFR 431.462. In 2016, a Circulator Pump Working Group [14] recommended a test procedure

[12] Pumps certified under the ASME B73 designation include: B73.1 (''Specification for Horizontal End-suction Centrifugal Pumps for Chemical Process''), B73.2 (''Specification for Vertical In-Line Centrifugal Pumps for Chemical Process''), B73.3 (''Specification for Sealless Horizontal End-suction Centrifugal Pumps for Chemical Process''), and B73.5 (''Thermoplastic/thermoset Polymer Material Horizontal End-suction Centrifugal Pumps Chemical Process''). All B73 pumps are designed for use as chemical process pumps, which have specific design requirements related to reliability and performance such as maximum shaft deflections, bearing frame lubrication, sealing requirements, and vibration limits.

[13] BEP is the pump hydraulic power operating point (consisting of both flow and head conditions) that results in the maximum efficiency.

[14] On February 3, 2016, DOE published its intention to establish a working group under the

Continued

and energy conservation standard for circulator pumps, which DOE is addressing in a separate rulemaking, and also made recommendations for SVIL pumps. SVIL pumps have characteristics identical to those for in-line pumps except SVIL pumps have shaft input power of less than 1 hp. The Circulator Pump Working Group recommended that (1) SVIL pumps be evaluated using the PEI_{CL} or PEI_{VL} metric, and (2) SVIL pumps should be tested using the DOE commercial and industrial pump test procedure, with any needed modifications determined by DOE. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #1B at pp. 1–2).

In the April 2022 NOPR, consistent with the Circulator Pump Working Group recommendation, DOE proposed to include SVIL pumps in the pump test procedure scope as an extension of IL pumps. 87 FR 21268, 21275–21276. DOE tentatively determined that SVIL pumps can be tested using the current DOE pumps test procedure with certain additional modifications. The metric and test procedure for SVIL pumps are discussed in sections III.D and III.G of this notice. Moreover, DOE stated in the April 2022 NOPR that it expects that including SVIL pumps in the pumps test procedure would reduce confusion over which inline pumps are and are not subject to energy conservation standards. *Id.* DOE requested comment on its proposal to expand the scope of the test procedure to cover SVIL pumps.

HI, NEEA, the CA IOUs, and the Efficiency Advocates agreed with including SVIL pumps in the scope of the test procedure, and Grundfos agreed that SVILs should be an extension of IL pumps. (HI, No. 33 at p. 2; NEEA, No. 34 at p. 4; CA IOUs, No. 32 at p. 2; Efficiency Advocates, No. 30 at pp. 2–3; Grundfos, No. 31 at p. 1) Grundfos also commented that it sells a small number of SVIL pumps without a motor, but it does not believe that SVILs sold without motors should be excluded from the regulation. (Grundfos, No. 31 at p. 4)

Due to the overlap between SVILs and circulators, NEEA and the CA IOUs expressed support for the development of standards to ensure that efficiencies of both are comparable. (NEEA, No. 34 at p. 4; CA IOUs, No. 32 at p. 2) NEEA stated their finding that 12 percent of IL pumps (excluding circulator pumps) are less than 1 hp, and that SVILs are therefore an important and overlapping segment of the market. (NEEA, No. 34 at p. 4) NEEA stated that it believes broadening the scope to include SVILs will help to avoid market confusion or gaps in coverage. *Id.*

For the reasons discussed in the preceding paragraphs and in the April 2022 NOPR, DOE is finalizing its proposal to include SVILs in the scope of the test procedure. DOE finalizes a definition for SVIL pumps in section III.B.4 of this document. In response to Grundfos' comment, DOE's finalized test procedure, as discussed in section III.G, incudes methods to test SVILs both with and without motors. DOE will address the development of standards separately in the ongoing pumps energy conservation standards rulemaking.

3. Other Clean Water Pump Categories

In the April 2022 NOPR, DOE proposed to expand the current test procedure's scope to include additional clean water pumps. 87 FR 21268, 21276–21279. The following sections discuss DOE's consideration of additional pump categories in the scope of the test procedure.

a. Between-Bearing Pumps

Section 1.2.9.2 of ANSI–HI 14.1–14.2–2019 describes between-bearing pumps as pumps that are one- or two-stage, axially-split, mounted to a baseplate, driven by a motor via a flexible coupling, and with bearings on both ends of the rotating assembly.

Based on a review of the market, BB pumps are generally larger than the pumps currently subject to the DOE test procedure. Many BB pumps exceed the head and horsepower limits in the current DOE test procedure. Additionally, BB pumps are not typically designed for clean water applications. Despite these generalities, DOE has identified certain clean water BB pumps under 200 hp and 459 feet of head that could be viewed as potentially interchangeable with pumps that are currently included in the scope of the current DOE test procedure.

To address the potential for pumps that provide unregulated alternatives to the pumps currently subject to the DOE test procedure, DOE proposed to include BB pumps within the scope of the DOE test procedure in the April 2022 NOPR. 87 FR 21268, 21277. However, DOE did not propose to expand scope beyond clean water pumps, and did not propose to expand the head or horsepower limitations currently listed in 10 CFR 431.464(1)(ii). *Id.* DOE noted that while many BB pumps exceed the test procedure's head or horsepower limitations, an expansion of the current head and horsepower restrictions has the potential to increase test burden by requiring larger laboratory equipment to test pumps according to the DOE test procedure and most of the larger BB pumps were not designed for clean water. *Id.*

In response to the April 2022 NOPR, the CA IOUs, the Efficiency Advocates, and Grundfos supported DOE's proposal to expand the test procedure scope to include BB pumps. (CA IOUs, No. 32 at p. 3; Efficiency Advocates, No. 30 at pp. 2–3; Grundfos, No. 31 at p. 1) The CA IOUs commented that BB pumps are high-cost, low-sale pumps and that they anticipate BB pumps will be larger, with motor horsepower of 100 or over. (CA IOUs, No. 32 at p. 3) The CA IOUs also cited industry literature indicating that efficiency can be improved by balancing the impeller forces in BB pumps. *Id.*

HI disagreed that BB1 [15] pumps are commercially acceptable replacements for currently regulated pumps due to design and cost considerations. (HI, No. 33 at p. 2) HI stated that the price for a BB1 pump compared to a currently regulated pump would be two times or more. *Id.* Despite supporting DOE's proposal to include BB pumps in the test procedure scope, Grundfos stated that it expects testing these pumps will increase test burden because of their large size, larger motor sizes required for test, and the potential for additional test fixtures. (Grundfos, No. 31 at p. 1)

Based on stake holder comments, feedback from manufacturer interviews, and additional reviews of product literature, DOE has determined that BB pumps do not serve as replacements for pumps currently covered by the DOE test procedure. For a given load point, a BB pump will be larger, heavier, and more expensive than an equivalent end suction pump. Therefore, it is making it very unlikely that customers would choose to replace a regulated end suction pump with an unregulated BB pump. Additionally, DOE has determined that manufacturers of BB pumps would likely need to build new test stands to test their BB products using the DOE test procedure. DOE notes that because most BB pumps are outside of the DOE test procedure scope, due to their flow and head exceeding the maximum flow and head set by DOE. Therefore, if DOE were to include BB pumps in this test procedure, BB pump manufacturers would need to make substantial capital investments to test and certify a very small number of

Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') to negotiate a test procedure and energy conservation standards for circulator pumps. 81 FR 5658. Throughout this document, this working group is referred to as the ''Circulator Pump Working Group''.

[15] BB1 pumps are a pump class defined by HI 14.1–14.2–2019 that are 1 and 2 stage, axially-split pumps with the impeller(s) mounted between bearings at either end. BB1 pumps are a specific sub-category of BB pumps.

pumps. This would result in a test cost per basic model that is as much as 100 times higher than DOE's estimate presented in the April 2022 NOPR. 87 FR 21268, 21309. Test costs are discussed in more detail in section III.K.1. Since customers are not expected to use BB pumps as replacements for end suction pumps and test burden for BB pump manufacturers would be very high relative to the number of pumps tested, DOE has determined that the potential benefits of including BB pumps within the scope of this test procedure are outweighed by the burdens associated with testing and certifying such products. As such, in this final rule DOE is not including BB pumps within the scope of this test procedure.

b. Vertical Turbine Pumps

As discussed in the April 2022 NOPR, DOE tentatively determined that ST pumps and VT pumps have similar end uses. 87 FR 21268, 21277. Additionally, DOE tentatively determined that ST and VT pumps have similar bowl and impeller assemblies, and that VT pumps may even share an identical assembly with an ST pump produced by the same manufacturer. *Id.* To address the potential for pumps that provide unregulated alternatives to the pumps currently subject to the DOE test procedure, DOE proposed in the April 2022 NOPR to include VT pumps, with no limit on bowl diameter for inclusion in the DOE test procedure. *Id.*

In response to DOE's proposal in the April 2022 NOPR, the Efficiency Advocates expressed support for DOE's scope expansion to cover VT pumps. (Efficiency Advocates, No. 30 at pp. 2–3) The CA IOUs commended DOE for including VT pumps and asserted that regulating equipment used for accessing groundwater in irrigation applications is important because at least 30 percent of the wells in Texas and California use VT pumps. (CA IOUs, No. 32 at p. 2)

HI stated that expanding the test procedure scope to include VT pumps would add a substantial burden for manufacturers who will have to test low-speed and large-diameter pumps. (HI, No. 33 at p. 3) HI continued by stating that these large-diameter VT pumps may be assembled and tested on site, and that manufacturers may or may not have the capacity to test VT pumps in their test facilities. *Id.*

DOE is finalizing its proposal to include VT pumps in the pumps test procedure scope. However, DOE is not adopting its proposal to include these pumps without a limit on bowl diameter, and is instead limiting the scope of VT pumps to bowl diameters less than or equal to six inches, consistent with the existing test procedure and energy conservation standards size limitation for ST pumps. HI indicated that expanding bowl diameter to greater than 6 inches for VT and ST pumps may have a significant impact on manufacturer test burden. DOE expects test time and cost for VT pumps with bowl diameters less than or equal to 6 inches is equivalent to that for ST pumps with bowl diameters less than or equal to 6 inches because of the similar physical characteristics and hydraulic properties for these pump classes. DOE's determination to exclude VT and ST pumps with bowl diameters greater than 6 inches is discussed in more detail in section III.A.4.a. of this document.

Based on its review of pump literature and pump schematics, DOE has determined that the current DOE test procedure based on HI 40.6–2021 is applicable to VT pumps and that therefore VT pumps can be easily added to the scope of the DOE test procedure. In addition, including provisions for VT pumps in the DOE test procedure will give consumers the ability to easily compare the efficiency of different VT and ST pump models serving similar applications. Lastly, creating a uniform test procedure and rating method for VT pumps will enable DOE to consider establishing energy conservation standards for these pumps. The definition for VT pumps is discussed in section III.B.6 of this document. DOE addresses the question of test burden in section III.K.1.a. of this document.

c. Radially-Split Multi-Stage Horizontal Pumps

The current DOE test procedure includes RSV pumps, but does not include RSH pumps, which are also multistage pumps used primarily in heating, cooling, and pressure boosting applications.

DOE has surveyed pump and end-product materials and literature available online and has concluded that RSV and RSH pumps are marketed for similar applications, and that RSH pumps could be substituted for RSV pumps and may provide a regulatory loophole to RSV pumps. Additionally, DOE determined that RSH pumps can be tested using the current DOE test procedure. In the April 2022 NOPR, DOE proposed to include RSH pumps with both in-line (''RSHIL'') and end-suction (''RSHES'') flow configurations in its test procedure scope. 87 FR 21268, 21278.

In response to the proposal to include RSH pumps in the test procedure scope, Grundfos stated that it agrees with adding RSHES pumps to the scope but requested additional information regarding which products meet the definitions and whether they should be considered under a single pump category. (Grundfos, No. 31 at p. 2) The Efficiency Advocates supported DOE expanding its test procedure scope to include RSHIL and RSHES configurations. (Efficiency Advocates, No. 30 at pp. 2–3) HI commented that the addition of RSH pumps will add manufacturer test burden. (HI, No. 33 at p. 3)

DOE has determined that the current DOE test procedure based on HI 40.6–2021 is applicable to RSH pumps, and that therefore RSH pumps can be easily added to the scope of the DOE test procedure. In addition, including provisions for RSH pumps in the DOE test procedure will give consumers the ability to easily compare the efficiency of different RSH and RSV pump models. Lastly, creating a uniform test procedure and rating method for RSH pumps will enable DOE to consider establishing energy conservation standards for these pumps. DOE is finalizing its proposal to include RSH pumps, specifically RSHIL and RSHES pumps, in the scope of the DOE test procedure. Definitions for RSH, RSHES, and RSHIL are discussed in section III.B.7 of this document. DOE addresses the question of test burden in section III.K.1.a. of this document.

d. End-Suction Pumps Similar to ESFM and ESCC Pumps

DOE defines a ''close-coupled pump'' as a pump having a motor shaft that also serves as the impeller shaft, and defines a ''mechanically-coupled pump'' as a pump that has its own impeller shaft and bearings separate from the motor shaft. 10 CFR 431.462. As discussed in the April 2021 RFI, DOE is aware that certain pumps may have their own shaft, but with no bearings to support that shaft. 86 FR 20075, 20078. Additionally, while the close-coupled pump definition describes a pump in which the motor shaft also serves as the pump shaft, the definition does not provide detail on how the motor and pump shaft may be connected. DOE has observed that some manufacturers describe close-coupled pumps as using an adapter to mount the impeller directly to the motor shaft. The coupling type is the only differentiator between ESCC pumps, which are ''close-coupled pumps,'' and ESFM pumps, which are ''mechanically-coupled pumps.'' In the January 2016 Final Rule, DOE noted that it intended for ESFM and ESCC pumps to be mutually exclusive to ensure that pumps that are close-coupled to the motor and have a single impeller and

motor shaft would be part of the ESCC equipment category, while all other end-suction pumps that are mechanically-coupled to the motor and for which the bare pump and motor have separate shafts would be part of the ESFM equipment category. 81 FR 4086, 4096. Despite this intention, DOE is aware that these definitions may have excluded some end-suction pumps from the test procedure scope.

In the April 2022 NOPR, based on comment responses from the April 2021 RFI and DOE's review of ESCC and ESFM pumps, DOE tentatively determined that there is a group of end-suction pumps that do not currently fall into either the ESFM or ESCC definition, but which may be competitors to the currently regulated pumps. 87 FR 21268, 21278. Therefore, in the April 2022 NOPR, DOE proposed to ensure that all clean water end-suction pumps are covered by the test procedure by revising the definitions of ESFM and ESCC pumps. *Id.* DOE tentatively determined that no test procedure revisions would be needed to accommodate these additional end-suction pumps. *Id.*

In response to DOE's proposal in the April 2022 NOPR, Grundfos and the Efficiency Advocates expressed support for revising the ESFM and ESCC definitions to include additional end-suction pumps. (Grundfos, No. 31 at p. 2; Efficiency Advocates, No. 30 at pp. 2–3)

For the reasons discussed in the April 2022 NOPR and in the preceding paragraphs, DOE is including all end-suction pumps within the coverage of this test procedure by modifying the definitions of ESFM and ESCC pumps.

e. Line Shaft and Cantilever Pumps

ANSI/HI Standard 14.1–14.2–2019, ''American National Standard for Rotodynamic Pumps for Nomenclature and Definitions'' (ANSI/HI 14.1–14.2–2019'') includes design criteria for different pump configurations, and section 14.1.3.3.1.3 describes vertically separate discharge sump pumps, a category of pump that includes line shaft (''VS4'') pumps and cantilever (''VS5'') pumps. Both VS4 and VS5 pumps are vertically-suspended pumps with a single casing and with a discharge column that is separate from the shaft column. The pump equipment categories defined by DOE do not explicitly reference VS4 or VS5 pumps, and some pumps may be covered by both the DOE definition of an ESFM pump and the HI definition of a VS4 or VS5 pump. 86 FR 20075, 20079.

DOE addressed comments on the April 2021 RFI regarding these pumps in the April 2022 NOPR. 87 FR 21268, 21278. DOE discussed that some line shaft pumps may already be within the test procedure scope but are defined as ESFM pumps. *Id.* Additionally, DOE noted that cantilever pumps are primarily designed for non-clean water applications, including liquids and slurries containing large solids. *Id.* DOE did not propose to include line shaft or cantilever pumps in the test procedure scope in the April 2022 NOPR. 87 FR 21268, 21279.

In response to the April 2022 NOPR, the Efficiency Advocates further encouraged DOE to consider coverage for both cantilever and line shaft pumps, stating that some of these pumps have similar designs to ESFM and ESCC pumps and some are marketed for pumping clean water. (Efficiency Advocates, No. 30 at pp. 3–4)

DOE notes that most or all clean water line shaft and cantilever pumps are already covered by the ES definition. DOE does not believe there is a significant amount of clean water cantilever and line shaft pumps, as these pumps are primarily designed for non-clean water applications including liquids and slurries that contain large solids. As discussed, DOE is not expanding the scope to include non-clear water pumps.

4. Scope Limitations

In the April 2022 NOPR, DOE also proposed to remove bowl diameter limitations for certain pumps, include an additional nominal speed of 1200 rpm, and decrease horsepower requirements for IL pumps. 87 FR 21268, 21279. DOE also proposed to clarify pump design temperature range. *Id.* The following sections summarize each of these topics.

a. Submersible Turbine Pumps With Bowl Diameter Greater Than 6 Inches

As discussed previously, the scope of the current DOE test procedure includes ST pumps with a bowl diameter of 6 inches or smaller. 10 CFR 431.464(a)(1)(i)(E) and (a)(1)(ii)(E).

DOE proposed in the April 2022 NOPR to include VT pumps within the scope of the DOE test procedure. 87 FR 21268, 21279. DOE did not propose a bowl diameter limitation for VT pumps in the April 2022 NOPR. VT pumps are similar in design to ST pumps and commenters had indicated that the two pump categories can be used in overlapping applications. *Id.* Therefore, to maintain consistency across VT and ST pump categories, DOE also proposed to remove the 6-inch bowl diameter limitation for ST pumps. *Id.*

In response to the April 2022 NOPR, the CA IOUs and the Efficiency Advocates supported including ST pumps with a bowl diameter greater than six inches. (CA IOUs, No. 32 at p. 3; Efficiency Advocates, No. 30 at p. 3) The CA IOUs also provided supplemental data to support the inclusion of ST pumps with bowl diameters greater than six inches. (CA IOUs, No. 32 at p. 3–5, 7) They found that 21 percent of California wells, and 36 percent of Texas wells had an estimated nominal bowl size between eight and twelve inches. *Id.* at 5.

China recommended that DOE retain the 6-inch maximum bowl diameter restriction for ST pumps to avoid the high cost of testing larger ST pumps. (China, No. 29 at p. 4)

Grundfos stated that all of its products with bowl diameters greater than 6 inches would be excluded from the regulation due to the head limitation (*i.e.,* less than or equal to 459 feet); however, it commented that increasing the maximum bowl diameter would have minimal impact on energy use and suggested that DOE instead evaluate how ST pumps with larger bowl diameters may be evaluated in a future rulemaking. (Grundfos, No. 31 at p. 2)

HI encouraged DOE to define how bowl size would be determined for a ST pump when the bowl diameter varies among stages. (HI, No. 33 at p. 4) HI also stated that since DOE has proposed to expand the size of ST pumps and include all sizes of VT pumps, DOE should clarify that its scope is limited to a specific speed of 5,000 in U.S. customary units for these pumps. (HI, No. 33 at p. 1) Additionally, HI recommended that DOE update the text in 431.464 (a)(1)(iii)(E) as follows: For ST, VT, ESCC and ESFM pumps, a specific speed less than or equal to 5,000 when calculated using U.S. customary units. *Id.*

In response to HI's comment on determining bowl size when bowl diameter varies between stages, DOE clarifies that where bowl diameter varies among stages, the minimum bowl diameter of a ST or VT pump would be considered the appropriate measurement.

Based on additional evaluation and the feedback it received from stakeholders, DOE has determined that manufacturers of VT and ST pumps with bowl diameters larger then 6 inches would likely need to build new test stands to test these products using the DOE test procedure. DOE notes that because many VT and ST pumps with bowl diameters larger then 6 inches are outside of the DOE test procedure scope because their head exceeds the

maximum set by DOE. Therefore, if DOE were to include these pumps in its test procedure, pump manufacturers would need to make substantial capital investments to test and certify a very small number of in-scope pumps. This would result in a test cost per basic model that is as much as 100 times higher than the estimates DOE presented in the April 2022 NOPR. 87 FR 21268, 21309. Test costs are discussed in more details in section III.K.1 of this document. Since test burden for VT and ST pump manufacturers would be very high relative to the number of pumps tested, DOE has determined that the potential benefits of including VT and ST pumps with bowl diameters larger than 6 inches within the scope of this test procedure are outweighed by the burdens associated with testing and certifying such products. Therefore, DOE is maintaining the 6-inch bowl diameter limitation for ST pumps and specifying a maximum bowl diameter of 6 inches for VT pumps in this final rule.

b. Pumps Designed To Be Operated at 1,200 RPM

As discussed, DOE limits the scope of pumps under the current test procedure to those designed to operate with a 2- or 4-pole induction motor, or a non-induction motor with an operating range that includes speeds of rotation between 2,880 and 4,320 rpm and/or 1,440 and 2,160 rpm. 10 CFR 431.464(a)(1)(ii)(D). In either case, the driver and impeller must rotate at the same speed. 10 CFR 431.464(a)(1)(ii)(D). The current DOE test procedure does not include pumps designed to operate with 6-pole induction motors, or with non-induction motors that have a speed-of-rotation operating range exclusively outside the ranges defined.

Based on a review of pump performance curves available online, DOE found that unregulated pumps tested with a nominal speed of 1,200 rpm are often part of the same pump families as those pumps that currently fall within the scope of the DOE test procedure.[16] 87 FR 21268, 21279. To ensure equitable treatment among these pumps, DOE proposed in the April 2022 NOPR to extend the scope of this test procedure to cover pumps designed to operate with 6-pole induction motors, and pumps designed to operate with non-induction motors with an operating range that includes speeds of rotation between 960 rpm and 1,440 rpm.[17] *Id.* DOE proposed test provisions to accommodate these pumps in the April 2022 NOPR and requested comment on its proposal. *Id.*

In response to the April 2022 NOPR, the CA IOUs and the Efficiency Advocates supported DOE including 6-pole motors. (CA IOUs, No. 32 at p. 3; Efficiency Advocates, No. 30 at p. 3) The CA IOUs stated that 6-pole clean water pumps often have operating ranges that compete with 4-pole pumps. (CA IOUs, No. 32 at p. 3) Grundfos agreed that 6-pole pumps should be considered but questioned whether doing so would achieve the energy savings that DOE anticipates, and observed that 6-pole pumps have much smaller sales numbers compared to less expensive 4-pole pumps for a similar duty point. (Grundfos, No. 31 at p. 5).

After review of stakeholder feedback, and for the reasons discussed above, DOE is extending the scope of this test procedure to cover pumps designed to operate with 6-pole induction motors. DOE may evaluate potential energy savings for these pumps in a future energy conservation standard.

In terms of operating range, Grundfos urged DOE to ensure that the operating ranges for 6-pole and 4-pole pumps designed to operate with non-induction motors are independent from each other. Grundfos additionally recommended setting the maximum operating range for 6-pole pumps designed to operate with non-induction motors at 1,439 rpm since the lower end of the operating range is 1,440 rpm for 4-pole pumps designed to operate with non-induction motors. (Grundfos, No. 31 at p. 2, 5) Similarly, HI recommended that DOE change the maximum operating speed for 6-pole pumps designed to operate with non-induction motors from 1,440 rpm to 1,439 rpm to provide a clear delineation between the operating range for 4-pole pumps designed to operate with non-induction motors (*i.e.,* 1,440 rpm to 2,160 rpm). (HI, No. 33 at p. 5)

DOE agrees that the operating ranges for 2-, 4-, and 6-pole pumps designed to operate with a non-induction motor should be separate from each other and not overlap. In consideration of stakeholder feedback, DOE is modifying the maximum operating speed for a 6-pole pump designed to operate with a non-induction motor from 960 rpm to 1,400 rpm as proposed in the April 2022 NOPR to greater than or equal to 960 rpm and less than 1,440 rpm. In summary, in this final rule, DOE is including clean water pumps designed to operate with a 6-pole induction motor or a non-induction motor with a speed of rotation operating range greater than or equal to 960 rpm and less than 1,440 rpm.

Grundfos also commented that adding the 6-pole speed highlights a point of unnecessary testing burden around the defined ''operating ranges'' with respect to variable speed equipment. (Grundfos, No. 31 at p. 2) According to Grundfos, a variable speed product with a motor designed for 4,000 rpm can technically operate at speeds across all three defined ''ranges,'' and current regulations require testing at all three nominal speeds. *Id.* However, Grundfos stated that a product with a 4,000 rpm design speed will likely perform only in a single operating range defined by DOE. *Id.* Grundfos asserted that consumers are more likely to purchase a less expensive pump with a smaller horsepower range than run a 4,000 rpm pump at 1,800 rpm. *Id.* Therefore, Grundfos recommended the DOE consider updating its language to state that variable load equipment should be tested at the nominal speed nearest the speed identified on the pump nameplate. *Id.*

DOE notes that section I.C.1 in appendix A specifies how to determine the nominal speed of rotation for testing. For instance, for pumps sold with 4-pole induction motors, the nominal speed of rotation shall be 1,800 rpm. (*See* section I.C.1.2) For 4-pole pumps designed for use with non-induction motors where the operating range of the pump and motor includes speeds of rotation between 1,440 rpm and 2,160 rpm, the nominal speed for test would be 1,800 rpm. (*See* section I.C.1.5) Whether the pump is sold with variable speed capability is immaterial, as the determination of nominal test speed is based solely on where the pump is designed to operate. DOE notes that, to determine the range of speeds that a pump is designed to operate within, DOE would refer to published data, marketing literature, and other publicly available information. This would include the pump nameplate. If the range of speeds a pump is designed to operate within crosses two or more categories, manufacturers must test and certify at each relevant nominal speed.

c. Pump Horsepower and Design Speed

As previously discussed, the current test procedure includes only ESFM, ESCC, IL, RSV, and ST pumps, each of which is limited by its respective definition to those with shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and

[16] See *www.regulations.gov/document/EERE-2020-BT-TP-0032-0024.* (Docket No. EERE–2020–BT–TP–0032–0024.)

[17] 960 and 1440 rpm are ±20 percent of 1,200 rpm. The acceptable non-induction motor ranges for 1800 and 3600 rpm pumps are also ±20 percent of the nominal value.

full impeller diameter. 10 CFR 431.464(a)(1)(i); 10 CFR 431.462.

In the April 2022 NOPR, DOE discussed comments that some pumps sold with electronically commutated motors (''ECMs'') and intended to run at higher speeds, such as 4,320 rpm, must be normalized to rate at 3,600 rpm. 87 FR 21268, 21279–21280. This adjustment causes the power of the motor to fall below 1 hp, meaning the pump is therefore out of scope. *Id.* As stated previously, the pump definitions reference horsepower limitations based on shaft input power at BEP and full impeller diameter. 10 CFR 431.462. DOE defines ''BEP'' as the pump hydraulic power operating point (consisting of both flow and head conditions) that results in maximum efficiency, and defines ''full impeller diameter'' as the maximum impeller diameter with which a given pump basic model is distributed in commerce. 10 CFR 431.462. DOE's test procedure for pumps at appendix A also includes test provisions for determining both BEP and pump input power (also known as shaft input power), as well as provisions for normalizing all measured data to the specified nominal speed of rotation. As such, while the definitions themselves do not specify that shaft input power is determined at nominal speed, DOE understands that the pump definitions could be interpreted to exclude pumps with shaft input power greater than or equal to 1 HP at BEP at their design speed, but less than 1 HP when tested and corrected to nominal speed. In addition, DOE understands that the value of maximum efficiency varies little with speed, and is often assumed to be constant, and as such the definition of BEP alone would not be sufficient to assume that it must be determined at a certain speed different from that in the test procedure.

However, DOE also notes that it is expanding the current test procedure scope to include SVIL pumps, which will address this issue. Specifically, SVIL pumps are fractional horsepower pumps, so even when corrected to nominal speed, the pumps in question would be included in scope. DOE understands that use of high frequency (*i.e.,* 4,000 rpm) ECMs is likely more prevalent on SVILs than on other pumps in this horsepower range, particularly as a result of their applications and competition with the circulator market. This means that including SVILs in this test procedure includes most, if not all, pumps where motor power decreases below 1 hp when rated at BEP. For these reasons, DOE did not propose to change the specified horsepower limitations within the pump category definitions in the April 2022 NOPR. 87 FR 21268, 21280.

DOE requested comment on its tentative determination that including SVILs in the test procedure scope will largely eliminate the issue of higher speed 1 hp pumps falling out of scope when they rate at a nominal speed of 3,600 rpm. 87 FR 21268, 21273. Grundfos and HI both agreed with DOE's determination. (Grundfos, No. 31 at p. 3; HI, No. 33 at p. 3)

For the reasons discussed in the preceding paragraphs and in the April 2022 NOPR, DOE is maintaining the 1 hp limitations in the ESFM, ESFC, IL, RSV, and ST pump definitions, and is including the 1 hp limitation in its definitions for RSH, and VT pumps.

d. Pumps Over 200 HP

As previously discussed, the current test procedure includes only ESFM, ESCC, IL, RSV, and ST pumps. Each of these classes is limited by its respective definition to those pumps with shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter. 10 CFR 431.464(a)(1)(i); 10 CFR 431.462.

In response to the April 2022 NOPR, the Efficiency Advocates encouraged DOE to expand the test procedure scope to include pumps greater than 200 hp, and stated that motors between 201 and 500 hp are the most consumptive motor size group in industrial electricity consumption. (Efficiency Advocates, No. 32 at p. 3) The Efficiency Advocates further commented that the current calculation methods and DOE's proposal to allow alternative efficiency determination methods (AEDMs) in lieu of physical testing would help mitigate test burden associated with these larger pumps. *Id.*

DOE notes in response that pumps with shaft input powers over 200 hp generally require larger, more expensive, test stands and testing facilities. Additionally, these pumps are often ''engineered-to-order'', resulting in many different basic models. These two factors would lead to significantly higher per- model test costs than for pumps with shaft input powers below 200 hp. AEDMs and the calculation methods in the DOE test procedure for pumps may alleviate some testing burden, but neither completely negate the need for physical testing of bare pumps which drives the higher testing burden above 200 hp. At this time, DOE has determined that expanding the pumps test procedure to include pumps with shaft powers greater than 200 hp would be too burdensome to pump manufacturers. DOE may re-evaluate this decision in a future rulemaking.

e. Horsepower and Number of Stages for Testing

In the April 2022 NOPR, DOE discussed how to handle certification of equipment when some models are regulated, and others are not. 87 FR 21268, 21280. DOE provided an example of an RSV basic model sold with a 1 hp motor tested at 3 stages, which is in scope, and an RSV model that is 2-stage with a 0.75 hp motor. *Id.* Since the latter pump uses a 0.75 hp motor, it is partially out of scope. *Id.*

In the April 2022 NOPR, DOE stated it understands that the same model of RSV pump may be sold with two stages, three stages, or some other number of stages. 87 FR 21268, 21280. DOE's RSV pump definition includes those pumps that have a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing. 10 CFR 431.462. DOE's testing provisions for RSV pumps in section C.2 of appendix A specify that the number of stages required for testing is three, or, if the basic model is only available with fewer than three stages, the basic model is tested with the maximum number of stages with which it is distributed in commerce in the United States. Therefore, in the previous example, the RSV pump model sold with 2 or 3 stages would be included in the scope of the test procedure (and standards) if it had a shaft input power greater than or equal to 1 hp when tested at 3 stages, and the resulting PEI would apply to all stages with which the pump model is sold. 87 FR 21268, 21280. DOE did not propose to modify this language in the April 2022 NOPR. *Id.*

In response to the April 2022 NOPR, Grundfos stated that it disagrees with DOE's interpretation of the regulation. (Grundfos, No. 31 at p. 11) Grundfos explained that the definition for a basic model states that a manufacturer cannot group equipment using DOE-regulated motors with equipment using motors under 1 hp, and therefore, the manufacturer would have two basic models, one with pumps at 1 to 200 hp and a second for pumps under 1 hp. *Id.* Grundfos added that the second basic model would not be in scope since RSV pumps with motors under 1 hp are not included in the test procedure scope. *Id.* Additionally, Grundfos commented that the same equipment sold as a bare pump would be considered a single basic model regardless of the number of stages and shaft power. *Id.*

DOE notes that the basic model definition in 10 CFR 431.462 states that all variations in the number of stages of

bare RSV and ST pumps must be considered a single basic model. The definition also states that for pumps sold with different motors, the motors must be in the same motor efficiency band to be considered a single basic model, referencing Table 3 in appendix A. However, Table 3 does not provide motor efficiencies for fractional horsepower motors. Additionally, section I.C.2 of appendix A specifies the number of stages for testing RSV and ST pumps. DOE acknowledges that this leaves multi-stage pumps sold with fractional horsepower motors out of scope of this test procedure, whereas equivalent pumps that include the specified number of stages for testing are included within scope of this test procedure. This distinction applies only for pumps sold with motors and does not affect bare pumps, in which DOE's original interpretation still stands.

f. Design Temperature Range

The current scope for the pumps test procedure is limited to pumps with a design temperature range between and including 14 to 248 °F. This range was derived from the original negotiation term sheet for pumps, which recommended limiting the scope to pumps with a design range from −10 °C to 120 °C. (Docket No. EERE–2013–BT–NOC–0039–0092). For the purposes of its regulations, DOE translated this range to Fahrenheit. DOE has received inquires as to whether a pump marketed for temperatures up to 250 °F is outside of the current test procedure's scope. In the April 2022 NOPR, DOE stated it reviewed marketing materials for a number of pumps and found that common upper limits of temperature are 212, 225, 248, 250, and 300 °F. 87 FR 21268, 21280. Some marketing materials stated that standard seals may have one high temperature limit while optional seals provide a higher limit (typically 250 or 300 °F). *Id.* DOE noted it understood that the original intent of the scope limitation was to exclude pumps designed exclusively for low or high temperatures from the test procedure. *Id.* However, if a manufacturer is offering a pump model across all temperature ranges to minimize SKUs, rather than offering separate low temperature and high temperature models, such a pump model should be subject to the regulations. *Id.* DOE explained that only pumps designed and marketed for temperatures exclusively outside the range of DOE's scope would be excluded from the test procedure and energy conservation standards. *Id.*

DOE also discussed that rounding to a temperature limit of 250 °F when translating from °C to °F would be preferable to using the exact value of 248 °F since manufacturers commonly use rounded temperature values in their marketing materials. *Id.* Similarly, DOE discussed that it would be preferable to round the lower temperature limit from 14 °F to 15 °F. *Id.*

In the April 2022 NOPR, DOE proposed to clarify its design temperature limits to include equipment that is designed for operation at temperatures that fall into any part of the range from 15 to 250 °F. 87 FR 21268, 21280. DOE requested comment on this clarification and on DOE's recommendation to shift the design temperature range from 14 °F to 248 °F to 15 °F to 250 °F. *Id.*

In response, Grundfos agreed with DOE's intention to clarify the temperature ranges. (Grundfos, No. 31 at p. 3) HI stated that it does not expect the temperature adjustment to have a significant impact (HI, No. 33 at p. 3)

For the reasons discussed previously, DOE is finalizing its proposed clarifications to the design temperature range which includes pumps with a design temperature inclusive of any part of the range from 15 °F to 250 °F.

B. Definitions

In the April 2022 NOPR, DOE discussed removing certain references to volute in pump definitions and HI pump class references. 87 FR 21268, 21281. DOE also proposed new definitions for bowl diameter, SVILs, BB, VT, RSH, RSHIL, and RSHES pumps. 87 FR 21268, 21281–21283. Further, DOE considered updating the definitions for close-coupled and mechanically-coupled pumps. 87 FR 21268, 21283–21284.

DOE received one general comment in response to the definitions proposed in the April 2022 NOPR. China suggested that DOE add corresponding schematic diagrams to textual definitions. (China, No. 29 at p. 3)

DOE understands that diagrams can help provide context and notes that its current test procedure references ANSI/HI 1.1–1.2 and ANSI/HI 2.1/2.2, which includes pump schematics. However, DOE has found that schematics may result in greater confusion, since schematics provide a specific example design but may not apply to other designs. For instance, a diagram may suggest scope restrictions (or expansions) that are not consistent with the definition language. Therefore, DOE is not including schematics or diagrams in addition to its textual definitions.

1. Removing Certain References to Volute

As discussed in the April 2022 NOPR, pumps generally have one of two common discharge types, either a volute or a diffuser. 87 FR 21268, 21281. A volute is made up of one or two scroll-shaped channels, whereas a diffuser has three or more passages that diffuse the liquid that is being pumped. *Id.* The current definitions for end-suction and in-line pumps use only the term ''volute'' when, in practice, either volutes or diffusers may be used for these pump categories. For example, DOE's current definition for end-suction pump specifies that the liquid is discharged through a volute in a plane perpendicular to the shaft, while the definition for ESCC pump, which is an end-suction pump, specifically references OH7 [18] pumps. 10 CFR 431.462. However, Table 14.1.3.7 of HI 14.1–14.2–2019 specifies a diffuser as the standard casing for OH7 pumps. Similarly, DOE's current definition for IL pump states that the liquid is discharged through a volute in a plane perpendicular to the shaft, and specifically references OH4 and OH5 pumps as examples of end-suction pumps. *Id.* In contrast, Table 14.1.3.7 of HI 14.1–14.2–2019 specifies a diffuser as the standard casing for OH4 and OH5 pumps. DOE noted in the April 2022 NOPR that HI 1.1–1.2–2014 did not make these casing distinctions. 87 FR 21268, 21281.

DOE interprets the term ''volute'' in its definitions for ''end-suction pump'' and ''in-line pump'' to mean the part of the pump casing through which liquid is discharged generally, rather than to reference a specific type of discharge. To avoid this unintentional inconsistency between DOE's terminology and the terminology used by the updated industry standard, DOE proposed in the April 2022 NOPR to amend the definitions of in-line pump and end-suction pump to remove the distinction that liquid is discharged ''*through a volute* in a plane perpendicular to the shaft'' [emphasis added] by specifying instead that liquid is discharged ''in a plane perpendicular to the shaft.'' *Id.*

In response to the April 2022 NOPR, HI, Grundfos, and China stated they support the volute clarification. (HI, No. 33 at p. 3; China, No. 29 at p. 4; Grundfos, No. 31 at p. 3)

For the reasons discussed, DOE is adopting the amended definitions for

[18] OH5 and OH7 pumps are defined as close-coupled pumps in ANSI/HI 14.1–14.2–2019. OH4 pumps are defined as rigidly-coupled/short-coupled pumps in ANSI/HI 14.1–14.2–2019.

end-suction and in-line pumps as proposed in the April 2022 NOPR.

2. HI Pump Class References

The current DOE definitions for ESCC pump, ESFM pump, IL pump, RSV pump, and ST pump all include references to ANSI/HI 1.1–1.2–2014 or ANSI/HI 2.1–2.2–2014 pump configurations as examples of pumps that would meet the given definition. In the April 2022 NOPR, DOE proposed to remove references to specific pump configurations as defined in ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 in the definitions for ESCC, ESFM, IL, RSV, and ST pumps since DOE and HI terminology are not wholly consistent. 87 FR 21268, 21281.

In response to the April 2022 NOPR, Grundfos stated it agrees with the proposal to remove the reference to ANSI/HI 1.1–1.2–2014 in DOE's definitions for ESCC, ESFM, IL, RSV, and ST pumps. (Grundfos, No. 31 at p. 3) In its comments, HI recommended replacing references to ANSI/HI 1.1–1.2 and ANSI/HI 2.1–2.2 with the updated ANSI/HI 14.1–14.2–2019, which superseded ANSI/HI 1.1–1.2 and ANSI/HI 2.1–2.2. (HI, No. 33 at p. 4) HI further explained that these references are used as the industry standard and will provide clarity to the market. *Id.*

DOE notes that its definitional language must be clear and consistent on its own without the support of diagrams or schematics, as application of additional diagrams or schematics may confuse the intent of a given definition. To establish self-contained definitions, DOE is removing the references to ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 in the ESCC, ESFM, IL, RSV and ST pump definitions, as proposed in the April 2022 NOPR. DOE has determined that the definitions without references to ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 provide sufficient specificity to clearly define the various pump categories.

3. Bowl Diameter

The current DOE definition for ''bowl diameter'' references the definition of ''intermediate bowl'' in ANSI/HI 2.1–2.2–2014. This mention is the sole remaining reference to ANSI/HI 2.1–2.2–2014 in the test procedure, since DOE is eliminating the HI pump class references to ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014. In the April 2022 NOPR, DOE tentatively determined that a self-contained definition for bowl diameter is clearer. 87 FR 21268, 21281. To disassociate the definition of ''bowl diameter'' from ANSI/HI 2.1–2.2–2014, DOE proposed in the April 2022 NOPR to define ''bowl diameter'' as ''the maximum dimension of an imaginary straight line passing through, and in the plane of, the circular shape of the intermediate bowl of the bare pump that is perpendicular to the pump shaft and that intersects the outermost circular shape of the intermediate bowl of the bare pump at both of its ends.'' *Id.* With respect to ''intermediate bowl,'' DOE proposed to define this term as ''the enclosure within which the impeller rotates and which serves as a guide for the flow from one impeller to the next.'' *Id.*

In response to the April 2022 NOPR, both HI and Grundfos encouraged DOE to also update the definition of ''intermediate bowl'' to be ''bowl'' as defined in ANSI/HI 14.1–14.2–2019. (HI, No. 33 at p. 4; Grundfos, No. 31 at p. 3)

Considering comments received, DOE is adopting a definition for ''bowl'' rather than ''intermediate bowl.'' DOE is defining bowl in 10 CFR 431.462 to mean a casing in which the impeller rotates, and that directs flow axially to the next stage or the discharge column. This definition is consistent with the definition for ''bowl'' in ANSI/HI 14.1–14.2–2019. In this final rule, DOE is modifying the definition for bowl diameter proposed in the April 2022 NOPR to refer to ''bowl'' instead of ''intermediate bowl''.

4. Small Vertical Inline Pumps

DOE proposed in the April 2022 NOPR to expand the scope of the test procedure to include SVIL pumps, which are identical to IL pumps except for having a shaft input power less 1 hp. 87 FR 21268, 21282. The Circulator Pump Working Group recommended that SVIL pumps be defined as a single stage, single-axis flow, dry rotor, rotodynamic pump that: (1) has a shaft input power less than 1 hp at the best efficiency point at full impeller diameter, (2) is distributed in commerce with a motor that does not have to be in a horizontal position to function as designed, and (3) discharges the pumped liquid through a volute in a plane perpendicular to the shaft. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendations #3C at p. 3)

The recommended definition would distinguish SVIL pumps from DOE's current IL pump definition [19] in that SVIL pumps have a reduced shaft power input range [20] and a different maximum pump power output limitation.[21] The change to shaft input power is the primary distinction between IL and SVIL pumps. In the April 2022 NOPR, DOE tentatively determined this distinction would be necessary to adequately separate the two categories. 87 FR 21268, 21282. The pump power output is a consequence of the shaft power limitations. *Id.* DOE tentatively determined that SVIL pumps do not require a 5 hp pump power output limitation, as their shaft input power is already capped below 1 hp. *Id.*

In the April 2022 NOPR, DOE noted that another difference is that the IL definition includes a group of three parameters to exclude circulator pumps—namely that they are either mechanically-coupled or close-coupled, have a pump power output that is less than or equal to 5 hp at BEP at full impeller diameter, and are distributed in commerce with a horizontal motor. 87 FR 21268, 21282. In contrast, the recommended SVIL definition is meant to exclude circulator pumps through clause (2) (*i.e.,* ''related to distribution in commerce with a motor that does not have to be in a horizontal position to function as designed''). *Id.* On September 9, 2022, DOE published a test procedure final rule for circulator pumps (''Circulator Pumps TP Final Rule''). 87 FR 57264. In the Circulator Pumps TP Final Rule, DOE defined a circulator pump as consisting of a wet-rotor circulator pump; dry rotor, two-piece circulator pump; or dry rotor, three-piece circulator pumps 87 FR 57264, 57269. The Circulator Pumps TP Final Rule also defined these subcategories of circulator pumps. *Id.* In the April 2022 NOPR, DOE proposed that for the SVIL definition, rather than including the recommendation in clause (2), to instead exclude circulator pumps. 87 FR 21268, 21282. For consistency, DOE also proposed to revise the IL pump definition to explicitly exclude circulator pumps instead of including the clauses meant to implicitly exclude them. *Id.*

DOE notes that clause (3) of the SVIL definition recommended in the April 2022 NOPR refers to a volute. For the reasons discussed in section III.B.1 of

[19] An ''in-line (IL) pump'' means a pump that is either a twin-head pump or a single-stage, single-axis flow, dry rotor, rotodynamic pump that has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter, in which liquid is discharged through a volute in a plane perpendicular to the shaft. Such pumps do not include pumps that are mechanically-coupled or close-coupled, have a pump power output that is less than or equal to 5 hp at BEP at full impeller diameter, and are distributed in commerce with a horizontal motor.

[20] IL pumps are constrained to greater than or equal to 1 hp and less than or equal to 200 hp, whereas SVIL pumps must be less than 1 hp.

[21] IL pumps have a limit of 5 hp at BEP, whereas SVIL pumps have no hp limitation.

this document, DOE is excluding this reference from the SVIL definition.

The recommended SVIL pump definition also requires that these pumps be distributed into commerce with a motor, meaning SVIL pumps cannot be sold as bare pumps. In the April 2022 NOPR, based on a literature search, DOE tentatively determined that all SVIL pumps are sold with a motor. 87 FR 21268, 21282. However, by proposing to replace clause (2) with an exclusion for circulator pumps, this requirement would be eliminated. *Id.*

In the April 2022 NOPR, DOE discussed that, although not addressed in the recommendation from the Circulating Pump Working Group, the defined term ''twin-head pump'' (10 CFR 431.462) would be applicable to SVIL pumps. 87 FR 21268, 21282. Specifically, in the January 2016 Final Rule, DOE adopted a test procedure for ''twin-head pumps'', where a twin-head pump is defined as a ''dry rotor, single-axis flow, rotodynamic pump that contains two impeller assemblies, which both share a common casing, inlet, and discharge, and each of which (1) Contains an impeller, impeller shaft (or motor shaft in the case of close-coupled pumps), shaft seal or packing, driver (if present), and mechanical equipment (if present); (2) Has a shaft input power that is greater than or equal to 1 hp and less than or equal to 200 hp at best efficiency point (BEP) and full impeller diameter; (3) Has the same primary energy source (if sold with a driver) and the same electrical, physical, and functional characteristics that affect energy consumption or energy efficiency; (4) Is mounted in its own volute; and (5) Discharges liquid through its volute and the common discharge in a plane perpendicular to the impeller shaft.'' 81 FR 4086, 4115–4117, 4147.

In the April 2022 NOPR, DOE proposed to define SVIL pumps based on the recommended definition from the Circulator Pump Working Group, with modifications to include SVILs that are small vertical twin-head pumps, to exclude pumps that are circulator pumps, and to remove the current reference to a volute. 87 FR 21268, 21282. Specifically, DOE proposed to define a ''small vertical in-line pump'' as a small vertical twin-head pump or a single stage, single-axis flow, dry rotor, rotodynamic pump that (1) has a shaft input power less than 1 hp at the best efficiency point at full impeller diameter, (2) in which liquid is discharged in a plane perpendicular to the shaft; and (3) is not a circulator pump. *Id.*

Since SVIL pumps are similar to IL pumps but operate at a lower horsepower, and also are available in twin-head configurations, DOE also proposed to define ''small vertical twin-head pump'' in the April 2022 NOPR and to extend the twin-head pump test procedure adopted in the January 2016 Final Rule to small vertical twin-head pumps. 87 FR 21268, 21273.

DOE requested comment on its proposed revision to the IL definition to explicitly exclude circulator pumps. Both Grundfos and HI agreed that DOE should revise the IL definition to explicitly exclude circulator pumps. (HI, No. 33 at p. 4; Grundfos, No. 31 at p. 4) DOE is adopting the definition for IL pumps as proposed in the April 2022 NOPR.

DOE also requested comment on the definitions for ''small vertical in-line pump'' and ''small vertical twin-head pump.'' DOE also requested comment on the percentage of SVIL pumps, if any, that are not sold with a motor, and whether the definition of SVIL pumps should be limited to those sold with a motor.

China requested that DOE provide additional clarity on the number of motor phases used in SVILs under 0.25 hp. (China, No. 29 at p. 4) China also commented that the definition for SVILs contains ''with bearings on both ends of the rotating assembly'' while common IL pumps on the market do not have bearings at both ends (China, No. 29 at p. 3).

HI commented that including SVILs in the pumps test procedure will ensure consistency between IL and SVIL pumps and that SVIL pumps should not be treated differently from IL pumps. (HI, No. 33 at p. 3, 4).

Regarding China's comment on motor phases for SVILs under 0.25 hp, DOE clarifies that the SVIL definition does not, nor does any aspect of the DOE test procedure, limit the number of phases of an SVIL motor below 0.25 hp. In response to China's question about bearings in the SVIL definition, DOE notes that the SVIL definition does not include ''with bearings on both ends of the rotating assembly'' and that the text China referenced is from the proposed definition of BB pumps in the April 2022 NOPR.

In response to DOE's proposed definition for small vertical twin-head pumps, Grundfos suggested that DOE revise the term ''twin head pump'' to ''in-line twin-head pump'' to minimize confusion with the small vertical twin-head pump definition. (Grundfos, No. 31 at p. 3) Additionally, Grundfos stated that ''Twin Head Pump'' is not consistent with the use of ''twin-head'' within the IL definition and needs a hyphen. *Id.* HI suggested that DOE clarify if both the volute discharge and common discharge must meet the ''plane perpendicular to the impeller shaft'' requirement in the small vertical twin-head pump definition. (HI, No. 33 at p. 4)

After consideration, DOE has determined that the twin-head and small vertical twin-head pump definitions are distinct and specific enough to avoid confusion. In response to HI's comment, DOE clarifies that only the common discharge of a twin-head and small vertical twin-head pump have to be in a plane perpendicular to the impeller shaft.

Regarding the percentage of SVILs that are sold with a motor, HI stated that it does not collect data on SVILs sold without motors and recommends asking manufacturers for this information during interviews. (HI, No. 33 at p. 4) While Grundfos commented that it sells a very small number of SVILs without a motor, it stated that SVILs sold without a motor should not be excluded. (Grundfos, No. 31 at p. 4)

In this final rule, DOE is adopting the SVIL definition proposed in the April 2022 NOPR, with the following revision: DOE has added a hyphen to the small vertical twin-head pump term to be consistent with the twin-head pump term.

5. Between-Bearing Pumps

As discussed in section III.A.3.a of the April 2022 NOPR, DOE proposed to add between-bearing pumps to the scope of its test procedure and therefore proposed a definition for this pump category. 87 FR 21268, 21282.

ANSI/HI 14.1–14.2–2019 defines between-bearing pump as a rotodynamic pump with the impeller(s) mounted on a shaft between bearings on either end. In addition, all between-bearing pumps described in ANSI/HI 14.1–14–2–2019 are mechanically-coupled and dry rotor. Based on a literature review, DOE tentatively determined in the April 2022 NOPR that the between-bearing pumps that are most similar to the pumps currently regulated by DOE have axially-split casings and 1 or 2 stages. 87 FR 21268, 21282. Accordingly, using ANSI/HI 14.1–14.2–2019 as the basis for its approach, DOE proposed in the April 2022 NOPR to use the defined terms ''dry rotor pump,'' ''rotodynamic pump,'' and ''mechanically-coupled pump'' to define a between-bearing pump, *i.e.,* ''an axially-split, mechanically-coupled, one- or two-stage, dry rotor, rotodynamic pump with bearings on both ends of the rotating assembly that has a shaft input power

greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing.'' 87 FR 21268, 218221282–21283.

In response to the April 2022 NOPR, Grundfos agreed with DOE's proposed definition for BB pumps and stated that the definition is sufficient to identify the intended scope. (Grundfos, No. 31 at p. 4) HI recommended amending the definition to be consistent with the definition for BB1 in ANSI/HI 14.1–14.2–2019.[22] (HI, No. 33 at p. 4)

As discussed, DOE is not including BB pumps within the scope of this test procedure; therefore, DOE is not adopting the proposed definition for BB pumps.

DOE also proposed to define ''axially-split pump,'' a term associated with BB pumps, in the April 2022 NOPR. 87 FR 21268, 21283. The term ''axially-split'' refers to a pump casing that can be separated, for maintenance and assembly, in a plane parallel to the impeller shaft. In the April 2022 NOPR, DOE proposed to define an ''axially-split pump'' as ''a pump with a casing that can be separated or split in a plane that is parallel to and which contains the axis of the impeller shaft.'' *Id.*

In response to the April 2022 NOPR, HI and Grundfos supported DOE's proposed definitions for axially-split pumps. (Grundfos, No. 31 at p. 4; HI, No. 33 at p. 4)

Again, since DOE is not including BB pumps within the scope of this test procedure, DOE is not adopting the proposed definition for axially-split pumps.

6. Vertical Turbine Pump

As discussed in section III.A.3.b, DOE is adding vertical turbine pumps to the scope of its test procedure and proposed a definition for vertical turbine pumps in the April 2022 NOPR. ANSI/HI 14.2–14.2–2019 defines vertical turbine pumps as ''single-casing, non-submersible pumps with impellers mounted in a vertically suspended shaft, that discharge liquid through the column.'' Using this definition as a basis, DOE proposed in the April 2022 NOPR to define ''vertical turbine pump'' as a vertically-suspended, single-stage or multi-stage, dry rotor, rotodynamic pump (1) That has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing; (2) For which no external part of such a pump is designed to be submerged in the pumped liquid; (3) That has a single pressure containing boundary (*i.e.,* is single casing), which may consist of but is not limited to bowls, columns, and discharge heads; and (4) That discharges liquid through the same casing in which the impeller shaft is contained. 87 FR 21268, 21283.

In response to the April 2022 NOPR, both HI and Grundfos recommended that DOE update the definition for vertical turbine pumps. (HI, No. 33 at p. 1, 2 and 4; Grundfos, No. 31 at p. 4) Specifically, HI and Grundfos mentioned that clause 2 of DOE's definition, which states ''no external part of such a pump is designed to be submerged in the pumped liquid,'' would exclude all vertical turbine pumps because their typical bowl assembly is submerged. *Id.* HI also explained that, within the pumps industry, vertical turbine pumps are understood to be VS1 and V3 types and do not include VS2[23] pumps. *Id.* HI therefore recommended that DOE reference ANSI/HI 14.1–14.2–2019. (HI, No. 33 at p. 5)

Grundfos suggested that DOE exclude VS2 pumps and change the term from ''vertical turbine pumps'' to ''vertical turbine, bowl assembly'' to avoid confusion (Grundfos, No. 31 at p. 4). Additionally, Grundfos commented that DOE should add a definition for ''bowl assembly'' and directly reference section 14.1.7.6 of ANSI/HI 14.1–14.2. *Id.* Finally, Grundfos recommended that DOE use the term 'bowl assembly' rather than 'pump', since 'pump' implies that losses for column, line shaft discharge head, etc. would be included. *Id.*

After further evaluation and considering the comments received, DOE has concluded that the definition for vertical turbine pumps proposed in the April 2022 NOPR would exclude all vertical turbine pumps since all or part of the bowl assembly is designed to be submerged in the pumped fluid. This was not DOE's intent; therefore, DOE is adopting a revised definition for vertical turbine pump that excludes only pumps with the driver submerged in the pump liquid. This allows the bowl assembly of vertical turbine pumps to be submerged in the pumped liquid, but still differentiates vertical turbine pumps from submersible turbine pumps. In response to comments from HI and Grundfos about referencing ANSI/HI 14.1–14.2–2019, DOE has determined not to reference ANSI/HI 14.1–14.2–2019 in the definition for vertical turbine pumps. This determination is discussed in detail in section III.C.1. of this document. DOE has determined that the adopted definitions in this final rule are sufficiently specific and detailed to stand on their own without reference to industry definitions.

7. Radially-Split, Multi-Stage Horizontal Pumps

As discussed in section III.A.3.c, DOE is including RSH pumps with both end-suction and in-line flow configurations in the scope of the DOE test procedure. RSH pumps are nearly identical to RSV pumps except for the mounting orientation and flow configurations. As discussed in section III.A.3.c, RSH pumps may have different flow configurations that are expected to impact pump efficiency; therefore, in the April 2022 NOPR, DOE proposed three definitions for RSH pumps based on the existing DOE definition for RSV pumps: one for an overarching category of RSH pumps, which does not characterize flow; one for in-line RHS pumps (''RHSIL''); and one for end-suction RSH pumps (''RSHESS). 10 CFR 431.462; 87 FR 21268, 21283.

In response to the April 2022 NOPR, both HI and Grundfos supported DOE's proposed definitions for RSH, RSHIL, and RSHES pumps. (Grundfos, No. 31 at p. 5; HI, No. 33 at p. 5) However, Grundfos commented that the RSH definitions are quite broad and will likely capture multiple different pump products under the RSHES definition. (Grundfos, No. 31 at p. 2) Grundfos requested that DOE clarify which pumps meet this definition and whether these pumps should be considered as a single pump category. *Id.*

DOE has determined that additional pump category definitions within the RSH definitions are not necessary for the purposes of testing. DOE interprets that the concerns shared by Grundfos are based on differences in hydraulic performance between different RSH pumps. DOE notes that should it find notable hydraulic performance differences between RSH, RSHES, and RSHIL pumps, DOE would consider these differences and define separate equipment classes accordingly for any future energy conservation standards rulemaking.

In this final rule, DOE is adopting the definitions for RHS, RHSES, and RHSILs as proposed in the April 2022 NOPR.

[22] ANSI/HI 14.1–14.2–2019 defines BB1 Pumps as one and two stage axially split casing pumps that are generally characterized by the following attributes: (1) pump and drive have separate shafts; (2) the pump has two integral bearing housings to absorb all pump axial and radial pump hydraulic loads.

[23] VS1, VS2, and VS3 pumps are vertically suspended impeller type pumps that discharge through a column. VS1 pumps have a diffuser, VS2 pumps use a volute, and VS3 pumps have axial flow. They are defined further in section 1.3.3.1.2 of ANSI/HI 14.1–14.2–2019.

8. Close-Coupled and Mechanically-Coupled Pumps

DOE defines a close-coupled pump as a pump having a motor shaft that also acts as the impeller shaft. *See* 10 CFR 431.462. DOE defines a mechanically-coupled pump as a pump that has its own impeller shaft and bearings separate from the motor shaft. *See* 10 CFR 431.462. In the April 2022 NOPR, DOE discussed how its definitions for close-coupled and mechanically-coupled pumps did not account for end suction pumps that do not have bearings separate from the motor and do not have the impellers mounted on the motor shaft. 87 FR 21268, 21283. In the April 2022 NOPR, DOE proposed revisions to the definitions for close-coupled and mechanically-coupled pumps to eliminate this gap. *Id.* DOE proposed that (1) A close-coupled pump means a pump in which the driver's bearings absorb the pump's axial load; and (2) A mechanically-coupled pump means a pump in which bearings external to the driver absorb the pump's axial load. *Id.*

In response to the April 2022 NOPR, HI recognized DOE's effort to clarify the definitions for ESFM and ESCC pumps but provided the following recommendations to further improve clarity: (1) A close-coupled pump means a pump in which radial and axial loads are primarily supported by the driver; and (2) A mechanically-coupled pump means a pump in which radial and axial loads are primarily supported external to the driver. (HI, No. 33 at p. 5)

Grundfos commented that the proposed revisions to the ESFM and ESCC definitions will create additional burden for manufacturers that must reclassify products accordingly. (Grundfos, No. 31 at p. 5)

DOE interprets HI's comment to indicate that the definitions for close-coupled and mechanically-coupled proposed in the April 2022 NOPR did not leave enough flexibility for pumps where most, but not all, of a pump's axial load is supported by either bearings external to the driver or by the driver. DOE acknowledges that some flexibility is important when defining close-coupled and mechanically-coupled to avoid excluding any end suction pumps. However, DOE notes that the definitions recommended by HI are vague, specifically the term ''primarily'' which leaves the suggested definition open to interpretation. In an effort to add flexibility to the definitions while minimizing the need for interpretation, DOE is adopting the following definitions for close-coupled and mechanically-coupled pumps, where the italicized portions of each definition are revisions to the definitions proposed in the April 2022 NOPR. A close-coupled pump means a pump in which the driver's bearings *are designed* to absorb the pump's axial load. A mechanically-coupled pump means a pump in which bearings external to the driver *are designed* to absorb the pump's axial load.

In response to the comment from Grundfos, DOE notes the change in definition is intended to improve clarity rather than substantively shift the bounds of the ESCC or ESFM pump categories. DOE has determined, based on its review of manufacturer literature and the consensus of industry in the form of HI's comments, that the revisions to close-coupled and mechanically-coupled pumps do not change the classification of currently regulated end suction pumps.

C. Updates to Industry Standards

The current DOE test procedure for pumps incorporates the following industry test standards: HI 40.6–2014, ANSI/HI 1.1–1.2–2014, and ANSI/HI 2.1–2.2–2014. 10 CFR 431.463. The following sections describe updates to these industry standards and discuss the industry standards DOE is incorporating by reference in the final rule and the relevant provisions of those industry standards that DOE is referencing.

1. ANSI/HI 40.6

The current DOE test procedure for pumps incorporates HI 40.6–2014 for use in appendix A. The most recent version of HI 40.6 was published in 2021 (''HI 40.6–2021''). HI 40.6–2021 includes the following updates to HI 40.6–2014 (relevant sections of HI 40.6–2021 are included in parentheses after a summary of the modification):

(1) Clarified that the industy testing standard covers efficiency testing of rotodynamic pumps that are subject to DOE's energy conservation standards. (Section 40.6.1 ''Scope'').

(2) Updated the calculation of bare pump efficiency to match the current DOE test procedure requirements for plotting test data to determine the best efficiency point (''BEP'') rate of flow. (Section 40.6.6.3 ''Performance curve'').

(3) Updated the description and requirements of the pressure tap configuration for measurement sections at inlet and outlet of the pump. (Section A.3.1.3 ''Pressure taps'').

(4) Added an informative appendix for determining, applying, and calculating measurement instrument uncertainty. (Appendix H ''Determination, application, and calculation of instrument (systematic) uncertainty (informative)'').

(5) References ANSI/HI 14.1–14.2 ''Rotodynamic Pumps for Nomenclature and Definitions'' (''ANSI/HI 14.1–14.2'') which supersedes ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014. (Section 40.6.4.1 ''Vertically suspended pumps''; Section 40.6.4.3 ''All other pump types'').

(6) Includes a new appendix (Appendix E) for the testing of circulator pumps. (Appendix E ''Testing Circulator Pumps'').

In the April 2022 NOPR, DOE tentatively determined that the provisions of HI 40.6–2021 that correspond to the provisions in HI 40.6–2014 are substantively the same and adopting such provisions would not change the current test procedure or measured PEI values. 87 FR 21268, 21285. Therefore, in the April 2022 NOPR DOE proposed to incorporate by reference HI 40.6–2021 in place of HI 40.6–2014, in order to reference the most current industry test procedure. *Id.*

DOE received no comments on its proposal to incorporate HI 40.6–2021 by reference for use in appendix A of the DOE test procedure. Therefore, in this final rule DOE is incorporating HI 40.6–2021 by reference as proposed in the April 2022 NOPR.

While DOE proposed to incorporate by reference HI 40.6–2021 as the basis for its proposed test procedure, DOE tentatively determined in the April 2022 NOPR that certain sections of the industry test standard are not applicable to the DOE test procedure. 87 FR 21268, 21285. Specifically:

(1) Section 40.6.1, Scope, provides the scope specific to the test methods outlined in HI 40.6–2021;

(2) Section 40.6.5.3 provides provisions regarding the generation of a test report;

(3) Appendix ''B'' provides informative guidance on test report formatting;

(4) Appendix ''E'' provides normative test procedures for circulator pumps; and

(5) Appendix ''G'' compares HI 40.6–2021 and DOE's nomenclature. *Id.*

None of these sections are required for testing and rating pumps in accordance with the test procedure that DOE proposed in the April 2022 NOPR. As such, in the April 2022 NOPR, DOE proposed to not adopt Section 40.6.1, Section 40.6.5.3, appendix B, appendix E, and appendix G in the April 2022 NOPR. *Id.*

DOE received no comments on the proposal to exclude the specified sections of HI 40.6–2021 from the DOE test procedure. Therefore, in this final rule, DOE is adopting the exclusions as proposed in the April 2022 NOPR.

Additionally, as discussed in the April 2022 NOPR, certain provisions of HI 40.6–2021 are consistent with the provisions of the current DOE test procedure in appendix A. 87 FR 21268, 21285. DOE proposed to remove these provisions in appendix A and instead reference the appropriate sections of HI 40.6–2021, specifically:

(1) Section I.D.1 of appendix A, which addresses damping devices, is amended to reference the corresponding provisions in HI 40.6.3.2.2;

(2) Section I.D.2 of appendix A, which addresses stabilization, is amended to reference the corresponding provisions in HI 40.6.5.5.1;

(3) Section I.D.3 of appendix A, which addresses calculations and rounding, is amended to reference the corresponding provisions in HI 40.6.6.1.1;

(4) Sections III.D.1, IV.D.1, V.D.1, VI.D.1, and VII.D.1 of appendix A, which outline testing the BEP of different pump configurations, are amended to reference the corresponding provisions in HI 40.6.5.5.1. *Id.*

DOE received no comments on its proposal to remove provisions of appendix A and instead reference the equivalent provisions in HI 40.6–2021 and is therefore adopting the revisions as proposed in the April 2022 NOPR.

2. ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014

Subpart Y to part 431 currently incorporates by reference ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014. DOE references ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 for defining certain terms in 10 CFR 431.462. In 2019, ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 were updated and combined into ANSI/HI 14.1–14.2–2019, ''American National Standard for Rotodynamic Pumps for Nomenclature and Definitions'' (''ANSI/HI 14.1–14.2–2019''). The notable additions to ANSI/HI 14.1–14.2 that were absent in ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 are outlined below:

(1) ANSI/HI 14.1–14.2–2019 includes additional figures and tables to represent information included in ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014;

(2) ANSI/HI 14.1–14.2–2019 adds new pump definitions and pump classifications;

(3) ANSI/HI 14.1–14.2–2019 includes configuration definitions for vertical in-line, vertical end-suction, vertical self-priming, seal-less, magnetic drive, canned motor, and multi-stage pumps;

(4) ANSI/HI 14.1–14.2–2019 adds new definitions for discharge casing, volute, concentric casing, modified concentric casing, vaned diffuser/collector, bowl, and stage casing; and [24]

(5) ANSI/HI 14.1–14.2–2019 includes a new ''preferred operating region'' section to define a guideline for recommended operating flow rates.

As stated previously, the current DOE test procedure incorporates pump designations from ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 as examples for the definitions of ESCC, ESFM, IL, RSV, and ST pumps under the DOE test procedure. 10 CFR 431.462. DOE notes that, in general, the references to ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 are in the context of providing non-limiting examples. DOE is concerned that continued inclusion of HI pump designations as examples of specific pump categories may cause confusion in the market or be misunderstood to limit the scope of the relevant definitions. To minimize potential misapplication of its definitions, DOE is removing the references to ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 as examples of certain pump category definitions, as proposed in the April 2022 NOPR. 87 FR 21268, 21286. Additional detail on the adopted changes to the definitions is discussed in section III.B.2 of this document.

Additionally, DOE's current test procedure definition of ''bowl diameter'' relies on the ''intermediate bowl'' definition in ANSI/HI 2.1–2.2–2014. As proposed in the April 2022 NOPR, DOE is modifying its definition for ''bowl diameter'' and adding a DOE definition for ''bowl'' to remove the current reference to ANSI/HI 2.1–2.2–2014. *Id.* These changes will create a more self-contained definition and are discussed in section III.B.3 of this document.

DOE is incorporating ANSI/HI 14.1–14.2–2019 by reference for use in appendix A since it is referenced in HI 40.6–2019. However, DOE does not directly reference ANSI/HI 14.1–14.2–2019 in appendix A.

D. Metric

The current energy efficiency standards for pumps are based on the PEI metric. 10 CFR 431.465. The PEI metric is a ratio of the pump energy rating (''PER'') of the tested pump to the PER of a minimally compliant pump (''PER_{STD}''). *See* section II of appendix A. The current test procedure defines the PEI_{CL} metric as the pump energy index for a constant load, as applicable to pumps rated as bare pumps or sold with motors; and the PEI_{VL} metric, the pump energy index for a variable load, as applicable to pumps sold with motors and continuous controls or noncontinuous controls. Appendix A, section II.A. A ''continuous control'' is a control that adjusts the speed of the pump driver continuously over the driver's operating speed range in response to incremental changes in the required pump flow, head, or power output. 10 CFR 431.462. A ''non-continuous control'' is a control that adjusts the speed of a driver to one of a discrete number of non-continuous pre-set operating speeds and does not respond to incremental reductions in the required pump flow, head, or power output. *Id.*

PER_{CL} is calculated as the average of driver power input at 75 percent, 100 percent, and 110 percent of flow at the BEP, where the flows are achieved by varying the operating head to follow the pump performance curve. *See* appendix A, section II.A.1 and subsequently referenced sections. PER_{VL} is calculated as the average of driver power input at 25 percent, 50 percent, 75 percent, and 100 percent of flow at BEP, where the flows are achieved by speed reduction to follow a specified system curve. *See* appendix A, section II.A.2 and subsequently referenced sections. BEP is defined as the pump hydraulic power operating point (consisting of both flow and head conditions) that results in the maximum efficiency. 10 CFR 431.462.

This section discusses the regulatory metric for SVIL pumps and additional clean water pumps that DOE is incorporating into its test procedure.

In the April 2022 NOPR, based on manufacturer feedback to this rulemaking and the current circulator pumps rulemaking,[25] DOE tentatively determined that use of PER_{CL} and PER_{VL} and indexing the results against PER_{STD} would be a reasonable and consistent way to evaluate SVIL performance. 87 FR 21268, 21286. This determination was based largely on the similarity of SVILs to in-line pumps, which are evaluated using the PER_{CL} and PER_{VL} metrics. *Id.* As such, DOE proposed in the April 2022 NOPR that the rating metric for SVIL pumps would be PEI_{CL} for constant load pumps and PEI_{VL} for variable load pumps, equivalent to the metric already in use for currently covered commercial and industrial pumps. *Id.*

In the April 2022 NOPR DOE tentatively determined that, for BB, VT, and RSH pumps, the test procedure will measure energy efficiency during a representative average use cycle and not be unduly burdensome to conduct. 87 FR 21268, 21286. This determination was based on the similarities between the pump categories that are addressed in the current test procedure and those that DOE proposed to include in the scope of the test procedure. *Id.* DOE tentatively determined that PEI_{CL} and PEI_{VL} are appropriate metrics for BB, VT, and RSH pumps. *Id.* Using PEI_{CL} and PEI_{VL} for these additional pump categories ensures a consistent rating approach in the market. *Id.* In the April 2022 NOPR, DOE proposed that the PEI_{CL} and PEI_{VL} metric would be used

[24] A volute may also be referred to as a ''housing'' or ''casing.''

[25] A link to the circulator pumps docket web page can be found at *www.regulations.gov/docket/EERE-2016-BT-STD-0004.*

for rating the performance of BB, VT, and RSH pumps. *Id.*

For the reasons discussed in the preceding paragraphs, for SVIL, VT, and RSH pumps, DOE is adopting PEI_{CL} for constant load pumps and PEI_{VL} for variable load pumps, equivalent to the metric already in use for currently covered commercial and industrial pumps.

In response to the April 2022 NOPR, China suggested that DOE revise PER_{std} on the basis of a scientific assessment of the new pumps being added to the test procedure scope. (China, No. 29 at p. 3) DOE notes that this test procedure final rule does contain amendments that may adjust PER_{std} for both current and expanded scope pumps. However, the overall methodology of determining PER_{std} does not differ by pump category; PER_{std} is specific to the flow and specific speed of a given pump model and includes a C-value that sets the energy conservation standard and is specific to a given pump category. Adopting a C-value for the expanded scope pumps would be considered in an energy conservation standard rulemaking rather than in this test procedure rulemaking.

E. Amendments to Test Method

DOE is incorporating HI 40.6–2021 into appendix A of subpart Y of 10 CFR part 431. HI 40.6–2021 specifies calculating pump power input,[26] driver power input (for testing-based methods),[27] pump power output,[28] pump efficiency,[29] bowl efficiency,[30] overall efficiency,[31] and other relevant values at the specified load points necessary to determine PEI_{CL} and PEI_{VL}. HI 40.6–2021 also contains provisions for test methodology, standard rating conditions, equipment specifications, uncertainty calculations, and tolerances.

Sections II through VII of appendix A specify methods for determining PEI_{CL} and PEI_{VL} for pumps based on whether they are distributed into commerce with a motor and/or with controls. These sections are summarized as follows:

- *Section II:* Calculation of PEICL or PEIVL for all pumps based on the pump energy rating for a minimally compliant reference pump (PERCL or PERVL, respectively);
- *Section III:* Test procedure for bare pumps;
- *Section IV:* Testing-based approach for pumps sold with motors;
- *Section V:* Calculation-based approach for pumps sold with motors;
- *Section VI:* Testing-based approach for pumps sold with motors and controls; and
- *Section VII:* Calculation-based approach for pumps sold with motors and controls.

See appendix A, sections I.A.2 through I.A.6.

The following sections summarize the amendments to the current test procedure that DOE proposed in the April 2022 NOPR, address stakeholder comments on these proposals, and finalize provisions for the amended test procedure.

1. Nominal Speed

The scope of the current test procedure is limited to pumps designed to operate with either a 2- or 4-pole induction motor or a non-induction motor with a speed of rotation operating range between 2,880 and 4,320 rpm and/or 1,440 and 2,160 rpm. 10 CFR 431.464(a)(1)(ii)(D). Section I.C.1 of appendix A specifies the selection of nominal speed of rotation of either 1,800 or 3,600 rpm depending on the number of poles of the motor or the operating range of non-induction motors.

As discussed in section III.A.4.b, DOE is including pumps that operate at greater than or equal to 960 rpm and less than 1,440 rpm or are designed to operate with 6-pole motors in the test procedure. In the April 2022 NOPR, DOE proposed that these pumps would be tested with a nominal speed of 1,200 rpm. 87 FR 21268, 21287. DOE also proposed to update the calculation and rounding sections of the test procedure to address this additional nominal speed. *Id.*

China commented that the DOE test procedure for 1,200 rpm pumps may result in cavitation and suggested that DOE instead provide a speed reduction test using pump affinity rules. (China, No. 29 at p. 3)

DOE notes that the test procedure for 1,200 rpm pumps would use a nominal test speed of 1,200 rpm. DOE has determined that this would be most representative of field operation for these pumps. If cavitation occurs at 1,200 rpm for a given pump under test, DOE considers that this is representative of field performance and is therefore a valid test. No other stakeholders identified cavitation as an issue for 1,200 rpm pumps.

HI stated it expects testing 6-pole pumps will significantly increase test burden and test cost; however, HI expects minimal energy savings relative to manufacturer impact since the volume of equipment impacted is small. (HI, No. 33 at p.3). Specifically, HI stated that most of these pumps are already regulated as 4-pole products. *Id.*

In response to HI's comments, DOE notes that increased burden associated with test procedure modifications is estimated and discussed in section III.L of this document. DOE will evaluate energy savings during its energy conservation standards rulemaking.

In this final rule, DOE is adopting the amendments to the test procedure as proposed in the April 2022 NOPR.

2. Testing of Multi-Stage Pumps

The current DOE test procedure specifies that RSV pumps shall be tested with three stages and that ST pumps shall be tested with nine stages. If the unit under test is only available with fewer than the required number of stages, the pump is tested with the maximum number of stages with which the unit is distributed in commerce in the United States. If the unit under test is only available with greater than the number of required stages, the pump is tested with the lowest number of stages with which the unit is distributed in commerce in the United States. If the unit under test is available with both fewer and greater than the required number of stages, but not the required number of stages, the pump is tested with the number of stages closest to the required number of stages. If both the next lower and next higher number of stages are equivalently close to the required number of stages, the pump is tested with the next higher number of stages. *See* appendix A, section I.C.2.

RSH and VT pumps also may be sold with a varying number of stages, in which the same pump may have options for multiple different stages for multiple applications. To reduce testing burden and mirror the practice established for RSV pumps, DOE proposed in the April 2022 NOPR that RSH pumps be tested with three stages. 87 FR 21268, 21287. To reduce testing burden and mirror the

[26] The term ''pump power input'' in HI 40.6–2021 is defined as ''the power transmitted to the pump by its driver'' and is synonymous with the term ''pump shaft input power,'' as used in this document.

[27] The term ''driver power input'' in HI 40.6–2014 is defined as ''the power absorbed by the pump driver'' and is synonymous with the term ''pump input power to the driver,'' as used in this document.

[28] The term ''pump power output'' in HI–40.6–2021 is defined as ''the mechanical power transferred to the liquid as it passes through the pump, also known as pump hydraulic power.'' It is used synonymously with ''pump hydraulic power'' in this document.

[29] The term ''pump efficiency'' is defined in HI 40.6–2014 as a ratio of pump power output to pump power input.

[30] The term ''bowl efficiency'' is defined in HI 40.6–2014 as a ratio of pump power output to bowl assembly power input and is applicable only to VTS and RSV pumps.

[31] The term ''overall efficiency'' is defined in HI 40.6–2014 as a ratio of pump power output to driver power input and describes the combined efficiency of a pump and driver.

practice established for ST pumps, DOE proposed testing VT pumps with nine stages. *Id.* If the pump under test is not distributed in commerce with the number of stages prescribed for testing, DOE proposed that the existing instructions for selecting the correct number of stages during testing would be followed. *Id.*

As defined in section III.B.5, BB pumps can have either one or two stages. For BB basic models that are distributed into commerce with both one and two stages, DOE proposed in the April 2022 NOPR to test BB pumps at two stages. 87 FR 21268, 21287. DOE discussed that this approach is consistent with the provisions in the current test procedure that require multi-stage pumps be tested with more than one stage. *Id.*

In response to the April 2022 NOPR, HI and Grundfos supported the proposed number of stages for testing RSH, VT, and BB pumps. (HI, No. 33 at p. 5; Grundfos, No. 31 at p. 5) HI additionally commented that a one-stage BB pump and a two-stage BB pump will always be different basic models. (HI, No. 33 at p. 5) China requested that DOE provide additional description for when BB pumps would be tested using one-stage versus two-stage. (China, No. 29 at p. 4)

As DOE is not including BB pumps within the scope of this test procedure DOE is not adopting the multi-stage testing provisions for BB pumps proposed in the April 2022 NOPR.

For the reasons discussed in the preceding paragraphs, DOE is adopting the number of stages for testing RSH and VT pumps test procedure as proposed in the April 2022 NOPR.

3. Load Profile

The current test procedure requires that the constant load pump energy rating be determined using 75, 100 and 110 percent of BEP flow with each value multiplied by 0.3333 and the results summed to determine PER_{CL}. Appendix A, sections III.E, IV.E, V.E. Similarly, for variable load pumps, energy ratings are determined at 25, 50, 75, and 100 percent of BEP flow with each point weighted by 0.25 and summed to obtain a value for PER_{VL}. Appendix A, sections VI.E, VII.E.

In the April 2022 NOPR, DOE discussed the current load profiles in response to comments received from stakeholders on the April 2021 RFI. 87 FR 21268, 21288. Specifically, DOE agreed with stakeholders that load profiles vary depending on the pump installation environment and application; however, DOE stated that the existing load profiles provide a consistent method for comparing the performance of different pumps. *Id.* DOE did not propose to modify the current load profiles in the April 2022 NOPR.

NEEA recommended that DOE consider test procedures and metrics that better account for motor and control performance at various load points in the future. (NEEA, No. 34 at p. 5) The CA IOUs stated that they are not aware of any reports that provide BB pump-specific operating hour ranges but suggested that DOE review industrial cooling, boiler feedwater, and municipal water supply application reports. (CA IOUs, No. 32 at p. 3)

As discussed in the April 2022 NOPR, DOE is not revising the current load profiles in this final rule notice. Additionally, SVIL, VT, and RSH pumps will use the same load profiles as other pumps previously covered in the scope of this rulemaking and described in the preceding paragraphs. DOE will continue to evaluate the impact of load profile on PEI.

4. Pumps With BEP at Run-Out

To determine a pump's BEP, the DOE test procedure references testing provisions included in HI 40.6–2014 (excluding sections 40.6.5.3, section A.7 and appendix B) at the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation. Appendix A, section III.D.1. All pumps have a maximum flow rate which is termed ''run-out.'' For pumps where the BEP is expected to be within 20 percent of the maximum flow rate of the pump (BEP at run-out), section I.D.4 of appendix A provides alternative flow points, with the maximum flow point equal to 100 percent of the expected maximum flow rate so that the pump may safely operate. As discussed in section III.C.1, Sections 40.6.5.5.1 and 40.6.6.3 of HI 40.6–2021 now include provisions related to pumps with BEP at run-out. Section 40.6.5.5.1 provides alternate test points based on the expected BEP rate of flow for pumps with a maximum allowable flow rate as specified by the manufacturer that is less than 120 percent of the BEP flow rate. Section 40.6.6.3 also provides alternate tested load points for the driver input power as a percentage of BEP flow rate for pumps that cannot be safely tested to flows greater than 120 percent of BEP. However, these provisions are based on flow points with respect to expected BEP flow rate rather than expected maximum flow rate.

In the January 2016 Final Rule, DOE responded to a comment from HI that in order to determine the location of BEP, testing must occur at rates of flow greater than 100 percent of expected BEP flow. 81 FR 4086, 4117. DOE stated that its proposal to use flow points only up to 100 percent was with respect to the expected maximum allowable flow rate rather than with respect to expected BEP. *Id.* DOE notes that the existing regulatory text contains an omission in which section I.D.4(1) of appendix A only refers to ''the expected,'' while section I.D.4(2) refers to ''the expected maximum flow rate of the pump.'' In the April 2022 NOPR, DOE proposed to include ''expected maximum flow rate of the pump'' in both section I.D.4(1) and I.D.4(2) of appendix A and would not reference sections 40.6.5.5.1 or 40.6.6.3 of HI 40.6–2021. 87 FR 21268, 21288. DOE requested comment on whether the alternate flow points for pumps with BEP at run-out should be determined with respect to expected maximum flow rate or expected BEP flow rate. *Id.*

In response, HI recommended that DOE modify the test procedure to require testing at 105 percent of BEP as a minimum criterion for pumps that cannot be tested to 120 percent of BEP. (HI, No. 33 at p. 5) HI suggested 105 percent of BEP because lower specific speed pumps can artificially benefit by truncating the actual BEP flow. *Id.* Grundfos commented that using the maximum flow rate provides a better curve for finding BEP and ensures that curve shape after BEP is properly captured (where possible). (Grundfos, No. 31 at p. 5) Grundfos additionally stated that using maximum expected flow can require a second test in some cases, with small additional burden, if BEP is found to be plus or minus 5 percent of the tested points but noted that this burden would be small given the limited systems reporting using BEP at run-out provisions. *Id.*

DOE notes that by relying on maximum expected flow rather than expected BEP flow rate, it is likely that most pumps would test at a minimum of 105 percent of BEP, as in most cases, maximum expected flow would not be less than 5% away from BEP. This addresses HI's suggestion to have a minimum point at 105 percent of BEP, while also making sure that all pumps in this category can be tested. This is also consistent with Grundfos' comment that maximum flow provides a better curve shape, especially after BEP. For these reasons, DOE is adopting BEP at run-out provisions as proposed.

In the April 2022 NOPR, DOE discussed that the current regulatory text would benefit from additional detail as to how the revised loading

points should be applied in the determination of PER_{STD}. 87 FR 21268, 21288. DOE proposed to specify that the revised loading points would only be used in application of the α_i coefficient values when determining pump power input, and not when determining specific speed (''Ns'') or the minimally-compliant pump efficiency (''$\eta_{pump,STD}$''), which should always be based on 100 percent of BEP flow for standardization purposes. *Id.* DOE did not receive any comments regarding how the revised loading points should be applied in the determination of PER_{STD}. Therefore, DOE is including the language as proposed in the April 2022 NOPR.

As part of the April 2022 NOPR, DOE also identified that the current provisions for pumps with BEP at run-out do not address how to perform motor sizing for bare pumps, which is based on the horsepower equivalent to, or the next highest horsepower greater than, the pump power input to the bare pump at 120 percent of the BEP flow rate of the tested pump. 87 FR 21268, 21288–21289. DOE proposed that for pumps with BEP at run-out, motor sizing would be based on 100 percent of the BEP flow rate of the tested pump, as there are no flow rates available higher than that level. *Id.* However, DOE acknowledged in the April 2022 NOPR that this proposed change could result in inequitable motor sizing compared to pumps not subject to these provisions. *Id.*

In response to the April 2022 NOPR, Grundfos agreed with the use of maximum flow rate to ensure BEP can be determined for motor sizing for bare pumps. (Grundfos, No. 31 at p. 6)

In this final rule, DOE is including the motor sizing language for pumps with BEP at run-out, as proposed in the April 2022 NOPR.

5. Calibration of Measurement Equipment

The current DOE test procedure references HI 40.6–2014 Appendix D, which specifies the frequency at which measurement equipment should be calibrated. Table D.1 of HI 40.6–2014 states that manufacturer's recommendations on calibration intervals should be followed if they differ from those in Table D.1. However, DOE notes that its test procedure does not explicitly reference Table D.1 of HI 40.6–2021.

In the dedicated-purpose pool pump test procedures included in appendices B and C to subpart Y of 10 CFR part 431 (''appendix B'', ''appendix C''), DOE has included the calibration requirements contained in Appendix D of ANSI/HI 40.6–2014, with modification allowing for calibration periods up to 3 times longer than those specified in Table D.1 of ANSI/HI 40.6–2014 if justified by historical calibration data. *See* appendix B, section I.B.2 and appendix C, section I.B.2.

Similar to the approach that DOE uses in appendix B and appendix C, DOE proposed in the April 2022 NOPR to specifically reference the calibration requirements in Appendix D of HI 40.6–2021 in section I.B of appendix A to improve the overall clarity of its test procedure. 87 FR 21268, 21289.

In response to the April 2022 NOPR, Grundfos agreed that including the reference to HI 40.6, Appendix D provides consistency and clarity regarding the required calibration requirements for testing. (Grundfos, No. 31 at p. 11).

For the reasons discussed in the preceding paragraphs and the stakeholder feedback received, DOE is adopting Table D.1 of ANSI/HI 40.6–2021 as proposed in the April 2022 NOPR.

6. Calculations and Rounding

The DOE test procedure includes provisions for calculations and rounding in section I.D.3 of appendix A. Generally, all measured data must be normalized such that it represents performance at nominal speed of rotation in accordance with HI 40.6–2014, and all calculations must be carried out using raw measured values without rounding. *See* appendix A, section I.D.3. PER is rounded to three significant digits and PEI is rounded to the hundredths place. *Id.* Explicit rounding directions are not provided for other parameters.

In the April 2022 NOPR, DOE did not propose any changes to its current rounding requirements, except for updates to reference the appropriate section of HI 40.6–2021, as discussed in section III.C.1 of this document. 87 FR 21268, 21289.

DOE did not receive comments on this proposal. For the reasons discussed in the preceding paragraphs and in the April 2022 NOPR, DOE is adopting the updated references as proposed in the April 2022 NOPR.

F. Calculation-Based and Testing-Based Options According to Pump Configuration (Table 1 of Appendix A)

The DOE test procedure for pumps includes calculation-based and testing-based options that apply based on pump configuration (including style of motor and control) as distributed in commerce. *See* appendix A, Table 1. The calculation-based options rely on a bare pump test, whereas the testing-based options rely on a ''wire-to-water'' test. The calculation-based options may reduce test burden by allowing a manufacturer to test a sample of bare pumps and use that data to rate multiple pump configurations using calculation-based methods. On the other hand, wire-to-water testing may more accurately represent pump, motor, and control performance.

1. Hybrid Mapping Approach

In response to the April 2021 RFI, NEEA recommended that DOE consider a hybrid approach to testing and calculation, similar to the test method included in Appendix H of ANSI/AMCA Standard 214–21, ''Test Procedure for Calculating Fan Energy Index (FEI) for Commercial and Industrial Fans and Blowers'' (''AMCA 214''), which stipulates a one-time test of the motor at multiple load points, which can be used to determine the input power at the appropriate pump test procedure load points and then used to calculate a rating. With this method, each motor need only be tested once, and the results used for multiple pump configurations. (NEEA, No. 21 at p. 10)

Similarly, in response to the April 2021 RFI, with respect to pumps sold with inverter-only motors, the CA IOUs cautioned against the use of a losses table for permanent magnet inverter-only motors with a non-integrated controller sold with a choice of controller due to variance in performance between drive units (as opposed to induction motors, which are relatively uninfluenced by choice of drive unit) and instead recommended this subset use a hybrid power drive system mapping procedure, which they expected would reduce burden. (CA IOUs, No. 19 at pp. 8–9)

In the April 2022 NOPR, DOE acknowledged that permanent magnet inverter-only motors sold without a controller may perform differently based on the inverter with which it is paired and recognized that a hybrid mapping approach may be beneficial. 87 FR 21268, 21290, 21299. However, DOE stated that it did not expect that the use of a hybrid mapping approach would provide the burden reduction intended by the use of the calculation method. 87 FR 21268, 21299. While the hybrid mapping approach would be less burdensome than multiple wire-to-water tests, it would likely be significantly more burdensome than a calculation-based approach based on a bare pump test, as it would require physical tests of all motors with which the bare pump would be paired. *Id.* Furthermore, DOE

tentatively concluded that the calculation-based approach is sufficient to generate appropriately representative values for this equipment—and with the option to allow for a testing-based approach, or an AEDM as discussed in section III.I.2, a manufacturer would be free to refine accuracy of the values for specific equipment. *Id.*

DOE did not propose a hybrid approach in the April 2022 NOPR but requested comment on whether manufacturers would use a hybrid mapping approach, and if so, whether manufacturers would conduct the motor tests or request the tests from their suppliers. 87 FR 21268, 21290. In addition, DOE requested comment on what additional provisions would need to be added to Appendix H of AMCA 214 to make it applicable to pumps, such as speed and load corresponding to pump rating points. *Id.* Finally, DOE requested comment on the merits of using a hybrid mapping approach specific to inverter-only motors and whether it would reduce or increase manufacturer burden compared to the current proposals. 87 FR 21268, 21299.

HI stated that hybrid mapping is not a current practice, so including this would add complexity and confusion, without an understood benefit. (HI, No. 33 at p. 6, 7) HI stated that the hybrid approach would be significantly more burdensome than a calculation-based approach based on a bare pump test, and that the calculation approach based on coefficients and bare pump test is sufficient to generate appropriately representative values or the equipment. (HI, No. 33 at p. 7). HI added that in many cases hybrid mapping data would not be available. For these reasons HI is not in favor of a hybrid mapping approach for inverter-only motors. *Id.*

Grundfos stated that compared to the current proposals of calculated method and AEDM, it did not believe a hybrid mapping approach would reduce burden. (Grundfos, No. 31 at p. 7) Grundfos commented that a hybrid mapping approach is not currently necessary since DOE has proposed a method for calculating PEIs for pumps sold with inverter-only motors. *Id.* at 6. However, Grundfos also stated they believe a hybrid mapping approach could provide more representative PEIs when compared to calculation-based approaches, but that more effort would be necessary to define a suitable motor mapping procedure to ensure it is applicable to pumping. *Id.*

NEEA recommended that in future proceedings DOE consider an optional hybrid approach to testing pumps sold with inverter-only synchronous motors to show the improvement in Pump Energy Index (PEI) from IE5 motors. (NEEA, No. 34 at p. 2)

DOE agrees with stakeholders that it is premature to develop a hybrid mapping approach in this rulemaking, but notes that DOE may consider the issue in future rulemakings.

2. Calculation Method for Pumps Sold With Induction Motors and Controls

Based on its review of available coefficients and part-load loss data, DOE tentatively determined in the April 2022 NOPR that without further data indicating that its current coefficients overstate motor drive system losses for pumps, it would retain its current loss model for motors less than 50 hp. 87 FR 21268, 21296. DOE noted that its current coefficients correspond to about 30 percent added harmonic losses and a 3 percent variable frequency drive (''VFD'') efficiency penalty. *Id.* DOE stated that it would consider revising its coefficients below 50 hp in accordance with the method suggested by HI,[32] or to harmonize with fans or with international standards, given appropriate data specific to pumps. *Id.* To ensure that the calculation method does not overrate pumps, while balancing stakeholders' requests for representativeness, DOE proposed to allow use of an AEDM, as discussed in section III.I.2 of this document. *Id.* DOE requested (1) data indicating whether AHRI 1210-certified data is applicable to pumps as well as any other applicable part-load loss data; (2) data indicating whether 15 percent and 25 percent incremental losses, which are specified as part of IE3 ratings that are not commonly used in the U.S., are applicable to the U.S. and do not overstate performance, and if not, what incremental losses would be appropriate to apply, and (3) data indicating an appropriate VFD efficiency penalty by hp. *Id.*

HI stated that related to item 2, the 15 percent and 25 percent incremental losses are appropriate and should be representative of motors commonly used in the U.S. (HI, No. 33 at p. 6) HI understood that NEMA supported these values and is adopting them into a future American National Standard. *Id.*

In its comment to the April 2021 RFI, HI stated that losses are especially overstated in the 50 hp to 100 hp range. (HI, No. 22 at p.3) In the April 2022 NOPR, DOE discussed its findings that its existing coefficients show a decrease in full-load efficiency at 75 hp, which would not be expected. 87 FR 21268, 21296. In addition, DOE noted that the AHRI 1210-certified data is limited to a maximum of 75 hp and does not exist at higher hp. *Id.* Furthermore, DOE stated that its current coefficients in the 50 hp to 100 hp range correspond to about 60 percent added harmonic losses and a 3 percent VFD penalty, and, based on previous discussion of typical losses, DOE tentatively determined that these losses are too high. *Id.*

In light of the fact that DOE's coefficients in the 50 hp to 100 hp represent harmonic losses that are too high, DOE proposed in the April 2022 NOPR to update its coefficients for motors rated at 50 hp and above. 87 FR 21268, 21296. To adjust its coefficients for motors 50 hp and above, DOE started with the current DOE default losses for the motor-only at full-load and added 15 to 25 percent losses, as applicable, as well as a VFD efficiency penalty of 3 percent. *Id.* DOE then adjusted the current DOE default losses for the motor and control at 100 percent to match the result of adding the incremental harmonic losses and VFD penalty, and applied the same adjustment factor to all load points. *Id.* Table III.1 summarizes DOE's proposal for the induction motor and control part-load loss coefficients. *Id.* DOE requested comment on its proposed part-load loss factors for induction motors and controls greater than 50 hp. *Id.*

TABLE III.1—PROPOSED INDUCTION MOTOR AND CONTROL PART LOAD LOSS FACTOR EQUATION COEFFICIENTS

Motor horsepower (hp)	Coefficients for induction motor and control part load loss factor (z_i)		
	a	b	c
≤5	−0.4658	1.4965	0.5303

[32] HI suggested new part load loss coefficients based on the differences between incremental losses predicted by IEC 60034–31 and the current DOE part load loss coefficients. (HI, No. 22 at p. 3)

TABLE III.1—PROPOSED INDUCTION MOTOR AND CONTROL PART LOAD LOSS FACTOR EQUATION COEFFICIENTS—Continued

Motor horsepower (hp)	Coefficients for induction motor and control part load loss factor (z_i)		
	a	b	c
>5 and ≤20	−1.3198	2.9551	0.1052
>20 and ≤50	−1.5122	3.0777	0.1847
>50 and ≤100	−0.6629	2.1452	0.1952
>100	−0.7583	2.4538	0.2233

Grundfos agreed that the updated coefficients better represent losses for motors greater than 50 hp. (Grundfos, No. 30 at p. 6) HI stated that it reviewed the coefficients proposed by DOE compared to those suggested by HI and noted only minor deviations in the calculated PEI. (HI, No. 33 at p. 6) HI supported the part-load loss factors for induction motors and controls proposed by DOE. *Id.*

For the reasons discussed previously, and based on stakeholder feedback, DOE is finalizing the updated induction motor and control part load loss factor equation coefficients as proposed and shown in Table III.1.

3. Calculation Method for Pumps Sold With Inverter-Only Motors (With or Without Controls)

In the April 2022 NOPR, DOE proposed that, to the extent that DOE adopts a definition, test procedure, and energy conservation standard for synchronous electric motors that are inverter-only electric motors, DOE would reference such regulations in the pumps test procedure, allowing for the use of the calculation method by pumps sold with synchronous electric motors that are inverter-only electric motors. 87 FR 21268, 21298.

a. Reliance on DOE Motors Test Procedure and Development of Coefficients

DOE published a NOPR regarding the test procedures for motors (''Motors TP NOPR''), in which DOE proposed to test inverter-only synchronous electric motors (inclusive of the inverter) that include an inverter in accordance with section 7.7.2 of IEC 61800–9–2:2017, using the test provisions specified in section 7.7.3.5 and testing conditions specified in section 7.10. 86 FR 71710, 71742 (Dec. 17, 2021). DOE proposed to test inverter-only synchronous electric motors that do not include an inverter in the same manner and to specify that testing must be performed using an inverter as recommended in manufacturer catalogs or offered for sale with the electric motor. *Id.* In the April 2022 NOPR, DOE proposed to require the nameplate efficiency of the inverter-only synchronous electric motors tested in accordance with any relevant test procedure in subpart B to part 431, if available, or if not available, in accordance with the DOE motors test procedure, should it be finalized. 87 FR 21268, 21298. DOE noted that this nameplate efficiency, as proposed, would be representative of the motor + inverter efficiency rather than just the motor efficiency. *Id.*

As proposed in the Motors TP NOPR, manufacturers of synchronous electric motors would not be required to test according to the DOE test procedure, if finalized, until the compliance date of energy conservation standards. 86 FR 71710, 71716. In the April 2022 NOPR, DOE stated that should it finalize a test procedure for these motors, there may be a period of time in which motor manufacturers would not be required to publish efficiency information for these motors. 87 FR 21268, 21298. However, DOE stated that since the proposed electric motors test procedure is an IEC test procedure, if DOE's proposal in the Motors TP NOPR were finalized, the tested efficiency of the synchronous inverter-only electric motors + inverters would likely already be available. *Id.*

Based on this premise, DOE proceeded to discuss a proposal regarding development of coefficients for the calculation method for pumps sold with inverter-only motors. 87 FR 21268, 21297–21299. DOE noted that in a submittal responding to the April 2021 RFI, HI stated that it developed coefficients and calculation modifications for inverter-only motors by establishing the incremental loss delta between power drive systems operating with induction motors and power drive systems operating with inverter-only motors. (HI, No. 22 at pp. 1–2) HI commented that it used actual motor data from multiple manufacturers to calculate these coefficients. *Id.* The coefficients developed by HI would require using either IE4 or IE5 minimum efficiencies (IEC 60034–30–2) [33] in the Section VII calculation for the equipped motor efficiency in appendix A. *Id.* HI also provided limited comparisons of the recommended inverter-only calculation method to test data for IE5 products. In five out of six cases, the calculation method resulted in a PEI equivalent to or higher than the test method. *Id.*

In the April 2022 NOPR, DOE stated that while it did not have data to evaluate HI's part load loss model quantitatively, DOE did plot HI's suggested model and preliminarily found the resulting trends in losses to be reasonable in relation to the expected loss differences between induction and synchronous electric motors. 87 FR 21268, 21298. Specifically, HI's suggested model showed inverter-only motors to be more efficient at part-load when compared to DOE's loss model for induction motors. *Id.* Further, HI's suggested model showed higher efficiency at full-load compared to DOE's loss model for induction motors—an expected outcome given that induction motor efficiency is set at a NEMA Premium level, whereas inverter-only efficiency is Super Premium. *Id.*

However, DOE identified three concerns with the HI's suggested model which it discussed in the April 2022 NOPR. 87 FR 21268, 21298. First, the HI-provided comparison of wire-to-water test data with results from the calculation method using the recommended coefficients resulted in one case where the PEI rating determined using the calculation method was lower than the PEI rating determined using the test method. *Id.* Second, HI's proposed coefficients were based on a delta between induction motors and inverter-only motors, and

[33] The International Electrotechnical Commission (''IEC'') standards IEC 60034–30 for variable-speed electric motors establishes an efficiency classification system for these motors. Efficiency classes are designated as IE1, IE2, IE3, IE4, and IE5.nIE4 is an approximation of super premium efficiency motors and IE5 is the IEC designation for ultra-premium efficiency motors.

DOE did not propose to adopt HI's proposed induction motor coefficients in the April 2022 NOPR. *Id.* Third, HI's coefficients are applicable to motor-only efficiency, while DOE's proposed test procedure for inverter-only motors includes efficiency for the motor + inverter combined. *Id.*

Therefore, DOE proposed in the April 2022 NOPR to make slight modifications to the inverter-only coefficients proposed by HI. 87 FR 21268, 21298. Specifically, DOE started with the proposed revised DOE induction motor and control coefficients, then applied the deltas provided by HI (the difference in efficiency points between a synchronous motor + control versus induction motor + control at different load points and different hp ranges), and then normalized to the motor + control losses (rather than the motor only losses). *Id.* Table III.2 shows the inverter-only motor and control part-load loss factor coefficients proposed in the April 2022 NOPR. These coefficients result in slightly higher losses than the HI model across all hp. 87 FR 21268, 21298. DOE requested comment on its proposed inverter-only part-load loss coefficients, specifically on the appropriateness of the delta used to derive these coefficients as well as any other available comparable motor data with which DOE could vet these coefficients. 87 FR 21268, 21299.

TABLE III.2—PROPOSED INVERTER-ONLY MOTOR AND CONTROL PART LOAD LOSS FACTOR EQUATION COEFFICIENTS

Motor horsepower (hp)	Coefficients for induction motor and control part load loss factor (z_i)		
	a	b	c
≤5	−0.0898	1.0251	0.0667
>5 and ≤20	−0.1591	1.1683	−0.0085
>20 and ≤50	−0.4071	1.4028	0.0055
>50 and ≤100	−0.3341	1.3377	−0.0023
>100	−0.0749	1.0864	−0.0096

The Efficiency Advocates supported DOE's proposal to permit use of a calculation-based method for pumps sold with inverter-only motors. (Efficiency Advocates, No. 32 at p. 3) They commented that inverter-only motors are highly efficient, and that a calculation-based method may reduce testing burden and facilitate adoption of pumps using these highly efficient motors. *Id.*

The CA IOUs supported inverter-only calculation methods discussed in the April 2022 NOPR for inverter-only pumps and added that the operating points are consistent with observations on field metered pump load profiles, operating speed assumptions, and other industry standards. (CA IOUs, No. 32 at p. 6) The CA IOUs also agreed that the proposed coefficients provide conservative calculation method results, which do not exceed wire-to-water measured performance and recommended DOE finalize the calculation method. *Id.* However, the CA IOUs stated that VFD to motor harmonic losses on the order of 30 percent is higher than standard practice or current generation products and indicated that they plan to submit data on this topic. *Id.* No such data were submitted.

While Grundfos stated that the method DOE used to determine these coefficients is reasonable, it suggested using the manufacturer interview process to obtain this information from specific manufacturers under both the motor and/or pump rules. (Grundfos, No. 31 at p. 6) Grundfos stated that it follows IEC 61800–9–2 for inverter-only motors and publishes combined motor and inverter efficiency. *Id.*

HI stated there is currently no standard methodology or specification for motor manufacturers to publish efficiency on the nameplate that includes motor and drive losses, and it is not typically available to pump manufacturers. (HI, No. 33 at p. 6) HI added that some manufacturers are measuring and publishing wire-to-shaft efficiency with inverter-only motors, but only when integrated by the manufacturer and this information may not be on the nameplate. *Id.*

HI commented that the coefficients proposed by HI in response to the April 2021 RFI added harmonic and VFD losses to the motor only losses as defined in IEC 60034–30–2, and that HI recommended using IE4 motor efficiencies (IEC 60034–30–1) as a default for the synchronous motors. (HI, No. 33 at p. 6) HI stated it understood that IEC 60034–30–1 provides tables for the motor only and IEC 60034–30–2 provides a calculation method to take IEC 60034–30–1 values and determine the motor efficiency on the drive by applying the incremental losses through calculation. *Id.* Additionally, HI responded that the coefficients proposed by DOE are different than proposed by industry since they start with a combined motor and VFD efficiency, and that this value is not available to pump manufacturers and there is no specification for manufacturers to publish these data. *Id.* HI recommended that instead of using a nameplate value that is not available to pump manufacturers, DOE (1) use the IE4 motor only efficiencies as defaults and specify standard math to add the VFD losses, or (2) start with IE4 motor only efficiencies and include the VFD losses in the coefficients as proposed by HI in the April 2021 RFI. *Id.*

NEEA supported the proposed calculation methodology for inverter-only synchronous motors, but recommended DOE consider an interim approach until these motors are covered by DOE regulations. (NEEA, No. 34 at p. 5) NEEA stated that it will take many years for the motors test procedure, should it proceed as written, to take effect and require testing of synchronous motors, and that this lag would cause confusion in the marketplace and stifle adoption of new technologies. *Id.* at 6. NEEA recommended that DOE incorporate by reference IEC 60034–2–3 until DOE has regulations covering these motors. *Id.* NEEA added that IEC 60034–2–3 is the most appropriate motors test procedure for calculating full load motor efficiency values, and the values do not include inverter losses, therefore producing reasonable full load motor efficiency values to be used with the values DOE proposed in Table III.2 of the pumps NOPR when calculation PER_{VL}.[34] *Id.* NEEA further recommended that incorporation of IEC 60034–2–3 should no longer apply when the motors are covered by DOE regulations. *Id.* NEEA stated that it had no test data with

[34] DOE notes that Table III.2 of the April 2022 NOPR included coefficients relative to motor + inverter efficiency, so it is not clear what NEEA's proposal is referring to.

which to evaluate the coefficients proposed in Table III.2 in the April 2022 NOPR, but supported the method used to determine the coefficients. *Id.*

NEEA additionally recommended that in the future, DOE consider test procedures and metrics that better account for motor and control performance at various load points. (NEEA, No. 34 at p. 5) NEEA stated that as more inverter-only and synchronous motors are developed and deployed, differentiating motor and control performance at part load points will become increasingly important. (NEEA, No. 34 at p. 7) NEEA noted that IE5-level motors can show more variability at part-load. *Id.* NEEA recommended that when IEC 61800–9–2 data are available, DOE consider revising the pumps test procedure to incorporate the specific losses at each load point as opposed to, or in addition to, the default loss curves. *Id.* NEEA stated this would allow manufacturers to showcase their improvements in efficiency and allow for more accurate representation of losses *Id.*

On October 19, 2022, following submission of comments to the April 2022 NOPR, DOE published a final rule regarding test procedures for motors (the ''Motors TP Final Rule''), which adopted a test procedure for inverter-only synchronous motors generally as proposed in accordance with IEC 61800–9–2:2017.87 FR 63588, 63659.

Since the adopted DOE test procedure for electric motors relies on motor and inverter efficiency, and beginning 180 days following publication of that test procedure, any representations of energy consumption for those inverter-only synchronous electric motors must be made in accordance with that test procedure, DOE has determined that it would not be appropriate to have a pumps test procedure that relies on motor only efficiency for these same motors. Instead, the pumps test procedure should rely on motor and inverter efficiency tested in accordance with the DOE electric motors test procedure, consistent with the existing test procedure for pumps sold with induction motors. As such, DOE is finalizing the pump test procedure as proposed in the April 2022 NOPR, to be based on motor and inverter efficiency rather than motor only efficiency. DOE acknowledges that there will be a period of time in which motor and inverter efficiency is not required to be published by motor manufacturers, however, DOE is also declining to develop an interim test procedure. This approach will limit potential deviation between interim ratings and any ratings post motor-standard, should one be finalized, which could cause market confusion, and will allow pump manufacturers to use motor and inverter data when available. Now that the DOE motors test procedure is final, there is more certainty in the market than there was at the time of the April 2022 NOPR, and motor manufacturers may choose to make representations early or upon request of their customers. DOE notes that many motor manufacturers are currently making representations regarding the energy efficiency of their inverter-only synchronous electric motors, and in order to continue doing so after the 180-day mark, those representations must be of motor and inverter efficiency in accordance with the DOE test procedure. Therefore, DOE expects such information to be relatively widely available. DOE is also finalizing an AEDM option for pumps, as discussed in section III.I.2. With this option, pump manufacturers may use their own calculation method, relying on any available data and coefficients they have, including potentially HI or NEEA's recommended approach, as long as such calculation meets the AEDM requirements, as discussed in section III.1.2. In addition, as DOE received no comment on the coefficients excluding the request to base them on motor-only efficiency, DOE is finalizing the coefficients as proposed.

b. Denominator for PEI Metric

In the April 2022 NOPR, DOE stated that the appropriate denominator for pumps sold with inverter-only synchronous electric motors is the same as for other pumps sold with motors with or without controls (*i.e.,* the efficiency standards for NEMA Design B motors in 10 CFR 431.25 is comparable to the PEI metric when comparing pumps across a common baseline). 87 FR 21268, 21298. Consequently, DOE did not propose a revision to the calculation of PER_{STD} for these pumps. *Id.*

DOE received no comments on this issue and is finalizing the denominator as proposed.

c. Applicability

In the April 2022 NOPR, DOE proposed that, to the extent that the calculation-based method would be applicable to pumps sold with synchronous electric motors that are inverter-only electric motors, such provision would apply to pumps sold with inverter-only synchronous electric motors both with and without controls. 87 FR 21268, 21299. DOE also proposed that pumps sold with inverter-only motors with or without controls would apply the testing-based approach in section VI of appendix A (for pumps sold with motors and controls) rather than in section IV of appendix A (for pumps sold with motors), given that section VI results in PEI_{VL}, and DOE assumed that such pumps, even if sold without an inverter, would be tested with an inverter. *Id.* DOE requested comment on its proposal to apply PEI_{VL} to pumps sold with inverter-only synchronous motors without controls, including application of the testing method in section VI of appendix A and the calculation method in section VII of appendix A. *Id.*

Grundfos agreed with the proposal. (Grundfos, No. 31 at p. 7) HI agreed with the proposal to apply PEI_{VL} ratings to pumps sold with inverter-only synchronous motors without controls, assuming they would use section VII of appendix A. (HI, No. 33 at p. 7) However, HI disagreed with section VII.A.2, ''Pumps sold with inverter-only synchronous electric motors regulated by DOE's energy conservation standards in subpart B of this part,'' stating that DOE should allow use of the calculation method using IE4 efficiency from IEC 60034–30–1, since most (if not all) synchronous inverter-only motors will meet the IE4 level. *Id.* HI also disagreed with sections V.A.2 and VII.A.3, ''SVIL pumps sold with small electric motors regulated by DOE's energy conservation standards at § 431.446 or with small non-small-electric-motor electric motors (''SNEMs'') regulated by DOE's energy conservation standards in subpart B of this part (but including motors of such varieties that are less than 0.25 hp) and continuous controls,'' stating that DOE should continue to allow use of the calculation method for non-DOE regulated small or SNEM motors as referenced in previous comments by creating coefficients specific to these motor types for section VII calculations. *Id.*

Based on the comments received, DOE is finalizing its proposal to apply PEI_{VL} to pumps sold with inverter-only synchronous motors without controls, including application of the testing method in section VI of appendix A and the calculation method in section VII of appendix A. DOE has addressed HI's concern with respect to their proposed IE4-based calculation method in section III.F.3.a of this document and discusses the concern regarding small or SNEM motors in section III.G of this document.

4. Pumps Sold With Submersible Motors

For pumps sold with submersible motors, the calculation of PER_{STD}, the test procedure for bare pumps, the calculation-based approach for pumps

sold with motors, and the calculation-based approach for pumps sold with motors and controls all include reference to Table 2 of appendix A, which includes default nominal full-load submersible motor efficiency values. These motor efficiency values were developed to allow for pumps sold with submersible motors to be rated using calculation-based methods despite the fact that submersible motors are not included in DOE's current motor regulations. In the Motors TP NOPR, DOE proposed a test procedure for submersible motors based on section 34.4 of NEMA MG1–2016 with its 2018 Supplements. 86 FR 71725, 71749–71750. DOE noted in the April 2022 NOPR that it had not established energy conservation standards for submersible motors, and that were DOE to establish a test procedure for submersible motors, such motors would not be required to be tested according to the DOE test procedure until such time that compliance with any energy conservation standards that DOE may establish is required. 87 FR 21268, 21299.

In the April 2022 NOPR, DOE proposed that for the calculation-based approaches for submersible pumps sold with motors (with or without controls), for determination of PER_{CL} and PER_{VL}, the default efficiency values in Table 2 of appendix A would be used until compliance with an energy conservation standard for submersible motors is required, should such a standard be established. 87 FR 21268, 21299. At such time, calculation of the pump efficiency for submersible pumps would rely on the motor efficiency rating marked on the nameplate and tested in accordance with the relevant DOE test procedure. *Id.* DOE further proposed that if DOE finalized a test procedure for submersible pumps, prior to any required compliance with an energy conservation standard that DOE may establish for these pumps, a manufacturer may rely on the motor efficiency represented by the motor manufacturer, if such a representation were made, or the default values in Table 2 of appendix A. *Id.*

DOE also proposed in the April 2022 NOPR that when determining PER_{STD} using the calculation-based approach for bare pumps, before the compliance date of any future standards for submersible electric motors that publishes after January 1, 2021, the default efficiency values in Table 2 of appendix A would be used. 87 FR 21268, 21299–21300. After the compliance date of any standards for submersible electric motors that publishes after January 1, 2021, any standards applicable to submersible motors in appendix B of part 431 would be used. 87 FR 21268, 21300. DOE requested comment on its proposal for the calculation-based approach for pumps sold with submersible pumps to require use of the rated motor efficiency marked on the nameplate that has been tested in accordance with the relevant DOE test procedure after such time as compliance is required with an energy conservation standard for submersible motors, should such a standard be established. *Id.*

Grundfos commented that this approach would be in line with the current requirements for pump testing using DOE regulated product and agreed with the approach. (Grundfos, No. 31 at p. 7) However, Grundfos stated that Section 34.4 of NEMA MG1–2016 is an inadequate test procedure for submersible motors. *Id.*

HI responded that, consistent with its comments on the Motors TP NOPR, which stated that the proposed submersible motor test procedure was inadequate, it does not believe this language is warranted at this time. (HI, No. 33 at p. 7) Thus, HI recommended that no changes to the test procedure for pumps sold with submersible motors be made at this time. *Id.*

In the Motors TP Final Rule, DOE did not finalize a test procedure for submersible motors. 87 FR 63588, 63605. However, DOE notes that the proposed provision in the pumps test procedure relates to any future standards for submersible motors, and as Grundfos stated, the approach is in line with the current requirements for pump testing with motors covered by DOE. As such, DOE is finalizing the provision as proposed, noting that it will have no impact if and until a future motors rulemaking adopts a test procedure and/or standard for submersible motors.

G. Test Procedure for SVIL Pumps

In this final rule, DOE is expanding the scope of the test procedure to include SVIL pumps. DOE reviewed the general pumps test procedure as finalized in this rule to determine if any modifications were necessary to accommodate SVIL pumps. The amended test procedure is based on the test methods contained in HI 40.6–2021, which DOE has determined also applies to SVIL pumps.

As discussed in section III.F, the general pumps test procedure also contains methods to determine the appropriate PEI using either calculation-based methods or testing-based methods. DOE has determined that these calculation- and testing-based methods are applicable to SVIL pumps just as they are applicable to IL pumps, based on the configuration in which the pump is being sold (*i.e.,* since SVIL pumps are sold as pumps with motors or pumps with motors and controls, the test methods enumerated in Table 1 to Appendix A apply to SVIL pumps). Additionally, the determination of pump performance in the pumps test procedure, as amended in this final rule, would be appropriate for SVIL pumps.

1. Applicable Motor Regulations

The primary differences between SVIL and IL pumps affecting the application of DOE's general pumps test procedure are the size and certain characteristics of the motor with which the SVIL pumps are rated. DOE notes that SVIL pumps, which this final rule defines as pumps having shaft input power less than 1 hp, may be paired with motors that are less than 1 hp and, as such, are not subject to DOE's electric motor regulations specified at 10 CFR 431.25. However, some motors less than 1 hp are subject to DOE's small electric motor regulations specified at 10 CFR 431.446.

In the April 2022 NOPR, DOE stated that its motor regulations at 10 CFR 431.446 exclude totally enclosed fan-cooled electric motors (''TEFC'') and certain other motors considered to be non-general purpose motors, which pump manufacturers had noted are frequently paired with SVIL pumps. 87 FR 21268, 21301. DOE stated that in the Motors TP NOPR, it had proposed adding such motors to the scope of electric motors coverage under the term small non-small electric motor electric motors (''SNEMs''). Specifically, DOE proposed to define SNEMs as agnostic to enclosure and topology, affirmatively stating that the proposed test procedure would apply to general-purpose, definite-purpose, and special-purpose motors. As proposed, SNEMs would include fractional horsepower motors as low as 0.25 hp. 86 FR 71710, 71721–71725. The Motors TP NOPR also proposed testing instructions specific to these motors. 86 FR 71710, 71739. DOE noted that it had not established energy conservation standards for SNEMs, and that were DOE to establish a test procedure for SNEMs, such motors would not be required to test according to the DOE test procedure until such time as compliance with any energy conservation standards be required, should such standards be established. Under DOE's Motors TP NOPR, any definitions, test procedures, and standards finalized for SNEMs would be in found in subpart B of part 431. 87 FR 21268, 21301.

In the April 2022 NOPR, DOE stated that it expected that the proposed definition and test procedure for SNEMs, as well as the proposed test procedure for inverter-only synchronous electric motors, as discussed in section III.F.3, would encompass the additional types of motors discussed by stakeholders that are not currently covered by the standards at 10 CFR 431.446. Therefore, DOE proposed that where the calculation-based test methods refer to the ''represented nominal full-load motor efficiency (*i.e.,* nameplate/DOE-certified value),'' the nominal full-load motor efficiency for an SVIL pump would be determined in accordance with the applicable test procedure in 10 CFR 431.444 or in subpart B of part 431.87 FR 21268, 21301.

DOE also proposed that for SVIL pumps, the determination of PER_{STD} would reference DOE's small electric motor regulations at 10 CFR 431.446 rather than the electric motor regulations at 10 CFR 431.25, and would be the minimum efficiency of the energy conservation standards for polyphase or single-phase (CSIR/CSCR) for the relevant number of poles and motor horsepower. 87 FR 21268, 21301. The single-phase standards only apply to CSCR and CSIR but the proposal would apply the efficiency values found at 10 CFR 431.446 when determining an SVIL pump's PER_{STD}. *Id.* DOE stated that it believed that these values represent an appropriate default for the SVIL market. *Id.* DOE also stated that it would also consider application of efficiency values found for specific SNEMs in subpart B of part 431, if the relevant proposed amendments contained in the Motors TP NOPR were finalized. *Id.* DOE stated that its information did not indicate that SVIL pumps are sold as bare pumps, but that if stakeholders identify such models, DOE would include these same provisions in the calculation method for bare pumps. *Id.*

DOE sought comment on whether the efficiency standards found at 10 CFR 431.446 are appropriate for use in the determination of PERSTD for SVILs, whether certain motor topologies that would be classified as SNEM are more prevalent and significantly less efficient, and whether the minimum efficiency of the polyphase and CSCR/CSIR standards for the relevant number of poles and motor horsepower is appropriate or whether there should be differences depending on the phase of the motor with which the pump is sold. 87 FR 21268, 21301.

HI and Grundfos stated that motor efficiencies found in 10 CFR 431.446 are not the lowest for topologies used in SVIL pumps and are inappropriate for determining PER_{STD} for SVIL products. (HI, No. 33 at p. 7; Grundfos, No. 31 at p. 7) HI and Grundfos stated that DOE must create a minimum efficiency table, similar to that created for submersible motors, to capture the minimums across the motor sizes covered by the SVIL products. *Id.*

NEEA supported DOE's recommendation for the test procedure for SVILs, but stated that they were concerned that the SNEM rulemaking will not conclude in sufficient time to allow for incorporation of those test procedures and standards into this rulemaking, creating a gap during which manufacturers would not have a calculation-based approach. (NEEA, No. 34 at p. 5) NEEA recommended that DOE add an additional calculation-based approach for SVIL pumps sold with motors not covered by the motors standard or test procedure at 10 CFR 431.446. *Id.* NEEA recommended that DOE embed a calculation approach for SVILs that uses IE2 efficiency levels to determine full load motor efficiency, as described in IEC 60034–30–1. *Id.* NEEA stated that these values are appropriate because the motors are not currently covered by a standard, so a conservative value would use an efficiency level below the standard for covered motors of similar sizes, and would not disadvantage manufacturers that choose to wire-to-water test equipment. *Id.* NEEA stated that once any motor TP or standard is in place and covering additional motor types, the embedded calculation-based methodology would no longer be valid. *Id.*

Following receipt of comments, DOE published the Motors TP final rule, which adopted a test procedure for SNEMs in appendix B to subpart B of part 431.87 FR 63588, 63657–63660. However, DOE has yet to adopt any energy conservation standards for SNEM. As a result, there are not currently minimum efficiency values for SNEMs on which DOE could base the calculation of PER_{STD} for SVIL.

DOE acknowledges that in the proposed approach, SVIL paired with SNEM may have worse PER ratings than SVIL paired with small electric motors (''SEM''), given that some SNEMs currently have lower efficiency that DOE's minimum requirements for SEMs. However, this is representative of the energy use of such an SVIL. In addition, DOE notes that the test procedure does not set a standard for SVIL, and that any calculated PER_{STD} is just a reference point. If or when DOE considers setting standards for SVIL, DOE may consider a PEI other than 1.00 as appropriate for this equipment category—depending on the timing and finalization of any DOE standards related to SNEM, and the relationship of SNEM to SEM minimum efficiency. Therefore, HI and Grundfos' concern regarding the lower efficiency of SNEM as compared to SEM can be ameliorated. DOE acknowledges that motor manufacturers will not be required to publish full-load motor efficiency for a given SNEM until the compliance date of any standards for SNEM. However, DOE is declining to develop an interim approach as suggested by NEEA, and is adopting the provisions for motor efficiency in SVIL calculations as proposed. As discussed regarding inverter-only motors in section III.F.3, this approach will limit potential deviation between interim ratings and ratings post motor-standard, if any, which could cause market confusion, and will allow manufacturers to use SNEM motor efficiency when available. Now that the DOE motors test procedure is final, there is more certainty in the market than there was at the time of the April 2022 NOPR, and motor manufacturers may choose to make representations in accordance with the DOE test procedure early such as at the request of customers, or if they are already making representations of energy use or energy efficiency and wish to continue doing so past the 180 day mark following publication of the DOE motors test procedure. DOE is also finalizing an AEDM option for pumps, as discussed in section III.I.2 of this document. With this option, pump manufacturers may use their own calculation method, relying on any available data and coefficients they have, including potentially NEEA's recommended approach, as long as such calculation meets the AEDM requirements, as discussed in section III.1.2.

Since the April 2022 NOPR, DOE has also determined through manufacturer interviews that a small percent of pumps are sold as bare pumps. Therefore, DOE is adopting the same provisions relevant to SVIL in the calculation method for bare pumps.

2. SVIL Paired With Motors Less Than 0.25 Horsepower

In the April 2022 NOPR, DOE stated that its market research indicates that the vast majority of SVILs are sold with motors with a nominal horsepower of 0.25 hp or greater. 87 FR 21268, 21301. However, DOE identified some models with horsepower closer to 0.125 hp. *Id.* Such motors are not subject to the standards in 10 CFR 431.446 and are not proposed to be subject to any test procedure in the Motors TP NOPR. *Id.*

DOE proposed that for determination of PER_{STD} for SVILs sold with a motor nominal horsepower of less than 0.25 hp, the full-load efficiency values in Table III.3 would be used. *Id.* DOE scaled these values from the standards for 0.25 hp pumps (3.9 efficiency point decrease, comparable to the most common decrease from 0.33 to 0.25 hp) and taken the minimum value across polyphase and CSCR/CSIR motors. *Id.* DOE also proposed that the nominal full-load motor efficiency for SVILs would be determined in accordance with the applicable test procedure in 10 CFR 431.444 or in subpart B of part 431, although such test procedure is not required for those motors. *Id.* DOE stated that it may consider alternate methods of determining motor efficiency for motors less than 0.25 hp, or if there is no appropriate test procedure, DOE may consider requiring SVILs sold with such motors to use a testing-based approach. *Id.* DOE sought comment on: (1) how many models of SVILs are sold with motors with a nominal horsepower less than 0.25 hp, (2) whether such motors could be tested in accordance with the relevant test procedures in 10 CFR 431.446 or proposed in the Motors TP NOPR, and if not, how such motors are tested, and (3) whether the efficiency values in Table III.3 are appropriate for such motors, and if not, how those values should be determined. *Id.*

TABLE III.3—AVERAGE FULL LOAD EFFICIENCY FOR SVILS LESS THAN 0.25 HP

Motor horsepower	Average full-load efficiency		
	Open motors (number of poles)		
	6	4	2
<0.25	58.3	64.6	61.7

Grundfos stated that SVIL sales data was provided as part of the manufacturer interview process. (Grundfos, No. 31 at p. 7–8) For testing of motors, Grundfos suggested DOE implement the process the EU follows by publishing coefficients for these motors and allowing for development of manufacturer specified coefficients, where required. *Id.* Grundfos stated that Table III.3 using a 3.9 percent decrease is insufficient and again recommended that DOE create a minimum efficiency table like that for submersible motors. *Id.*

HI recommended that DOE reference manufacturer interviews with regard to sales data. (HI, No. 33 at p. 7) HI did not agree with DOE's methodology for Part 3 and the limited topologies used in the scaling. *Id.* HI noted that this approach misses less efficient motor topologies that are selected because the product's market price point. *Id.*

China stated that DOE did not specify the number of motor phases applicable to SVILs less than 0.25 hp, and suggested that DOE clarify the phase requirement for these motors and set up separate energy efficiency indicators for motors with different phase numbers. (China, No. 29 at p. 4)

Given that DOE is adopting the efficiencies found in 10 CFR 431.446 as discussed in section III.G.1, and for the reasons discussed in that section, DOE is also adopting the proposed efficiencies derived from those values as shown in Table III.3. This will allow the ratings for SVIL with motors less than 0.25 hp to be rated consistently with SVIL with larger motors.

DOE notes that neither Grundfos nor HI explicitly stated whether such motors could be tested in accordance with the relevant test procedures in 10 CFR 431.446 or proposed in the Motors TP NOPR. Grundfos suggested that DOE publish coefficients and allow for manufacturer specified coefficients, where necessary. (Grundfos, No. 31 at p. 7–8) DOE does not have data available with which to develop default efficiency values for these motors. In addition, DOE notes that manufacturers have the ability to develop their own coefficients using an AEDM approach, as discussed in section III.I. For this reason, DOE is adopting its proposal that the nominal full-load motor efficiency for SVILs would be determined in accordance with the applicable test procedure in 10 CFR 431.444 or in subpart B of part 431. DOE notes that if this value is not available, manufacturers may choose to wire-to-water test and/or to use an AEDM.

In response to China, the test procedure proposed in the April 2022 NOPR and adopted in this final rule does not restrict the number of phases for motors paired with SVILs.

3. SVIL Paired With Other Motors Not Covered by DOE Regulations

In the April 2022 NOPR, DOE stated that it expected that the existing regulations for small electric motors at 10 CFR 431.446, as well as any finalized regulations for SNEMs and inverter-only synchronous electric motors, would account for the vast majority of motors sold with SVIL pumps. 87 FR 21268, 21302. However, DOE proposed that any SVIL pumps that are distributed in commerce with motors that are not regulated by DOE's electric motor regulations at 10 CFR 431.25, DOE's small electric motor regulations at 10 CFR 431.446, or any electric motor regulations in subpart B to part 431 established after January 1, 2022, as applicable, would need to apply the testing-based methods currently specified in sections IV and VI of appendix A and as proposed to be modified in the proposed rule. *Id.* Given that DOE proposed for PER_{STD} to reference motor efficiencies relevant to SVIL pumps, DOE proposed not to have an option for SVIL pumps sold with single-phase motors to be rated as bare pumps. *Id.*

If regulations for SNEMs and inverter-only synchronous electric motors are not set, DOE stated that it may consider allowing an option for SVIL pumps sold with single-phase motors to be rated as bare pumps. In this case, DOE would reference the efficiency values in 10 CFR 431.446 to determine bare pump performance. 87 FR 21268, 21302.

DOE sought comment on its proposal to require testing of SVIL pumps distributed in commerce with motors not regulated by DOE's current electric motor regulations or any motor regulations finalized after January 1, 2022. 87 FR 21268, 21302. DOE also sought comment on whether it should allow such pumps to be rated as bare pumps only if any motor regulations finalized after January 1, 2022, do not include SNEMs and inverter-only synchronous electric motors. *Id.*

Grundfos stated that DOE should consider the impact of this mandatory testing-based approach if motor regulations are not finalized for motors used in SVIL products. (Grundfos, No. 31 at p. 8) Grundfos added that the testing burden would exceed the burden the inverter-only calculation method was created to eliminate, due to the

basic model 'band rule' and varying motor topologies used in SVIL. *Id.*

HI disagreed with sections V.A.2 and VII.A.3 and recommended that DOE should continue to allow the calculation method for non-DOE regulated small, SNEM motors, or inverter-only motors by creating coefficients specific to these motor types for Section VII calculation. (HI, No. 33 at p. 8)

Following comments received on the April 2022 NOPR, DOE published the Motors TP Final Rule, which adopted test procedures for SNEM and inverter-only synchronous motors in Appendix B to Subpart B of part 431. 87 FR 63588, 63657–63660. At the time of publication of this final rule, DOE has not adopted any energy conservation standards for SNEM or inverter-only synchronous motors. As discussed, DOE believes that the test procedures for SEM, SNEM, and inverter-only synchronous motors would account for the vast majority of motors sold with SVIL pumps. For this reason, DOE adopts its proposal to limit the calculation methods to SVIL sold with motors subject to a DOE test procedure, and to require testing of SVIL pumps distributed in commerce with motors not regulated by DOE's current electric motor regulations or any motor test procedure and/or energy conservation standards finalized after January 1, 2022. DOE notes that such SVIL pumps could also be rated using an AEDM, as discussed in section III.I of this document.

4. Part-Load Loss Curves

As stated in section III.F.1, the general pumps test procedure includes calculation-based methods that specify part-load loss curves for pumps sold with motors, accounting for the part-load losses of the motor at each load point, as well as part-load loss curves for pumps sold with motors and continuous controls, which account for additional losses.

In the April 2022 NOPR, DOE stated that it understood that part-load loss curves (*i.e.,* the variation in efficiency as a function of load) do not vary significantly between 1 hp motors and drives and motors and drives that are less than 1 hp. 87 FR 21268, 21302. DOE stated that it did not receive any newer data or any indication that the SVIL market has changed such that data collected in 2017 would no longer be applicable. *Id.* DOE did not propose to revise its part-load loss curves for motors and drives less than 5 hp. Therefore, DOE proposed to apply the existing motor and combined motor and drive part-load loss curves that are applicable to 1 hp motors and drives to the fractional horsepower motors and drives with which SVIL pumps may be sold. *Id.* DOE noted that IEC standards do not include motors below ¾ kw (1 hp), and that many SVIL pumps may use integrated packages rather than separate motors and drives—and may be specific to each manufacturer. *Id.* Consequently, there may be more variation in losses across manufacturers or models compared to larger hp motors and drives. *Id.* As discussed in section III.I.2, DOE proposed to allow use of AEDMs for pumps. DOE stated that in cases where a manufacturer wishes to use an alternative to the part-load loss coefficient method, it may choose to perform wire-to-water testing of SVILs or employ an AEDM under DOE's proposal. *Id.*

DOE sought comment on whether the market for SVIL pumps has changed such that the data collected by DOE in 2017 would no longer be applicable, and whether the use of AEDM would address concerns related to part-load loss curves specific to low-horsepower motors. 87 FR 21268, 21302.

Grundfos stated that data was submitted as part of the manufacturer interview process. (Grundfos, No .31 at p. 8) Grundfos added that because the calculated method should remain, allowing AEDM will not solve the issue of part-load loss curves for SVIL products in the short term. *Id.*

HI did not believe the market has changed since 2017, but suggested that DOE consider manufacturer interviews. (HI, No. 33 at p. 8) HI recommended that DOE conduct research on the part load loss factors for these lower horsepower motors to inform the calculation method. *Id.* HI stated that the use of AEDM to improve the part load loss calculation would increase burden compared to a calculation method. *Id.*

NEEA recommended that DOE rely on market data already in its possession from previous rulemaking proceedings. (NEEA, No. 34 at p. 5) NEEA stated that this data, made public in 2017, is recent enough that it represents the current market for this pump class. *Id.* NEEA stated that considering the viability of DOE's data and similarity to covered pump classes, there is no reason to delay this rulemaking further with an additional round of data acquisition and analysis. *Id.* NEEA recommended that DOE proceed with data from 2017. *Id.*

DOE has not received any additional data indicating that the part-load loss curves for SVIL with motors less than 1 hp should be any different than those for SVIL paired with1 hp motors. Therefore, DOE is finalizing the part-load loss curve as proposed, consistent with NEEA's suggestion. Regarding HI and Grundfos' concern with the added burden of an AEDM as compared to a calculation approach, as discussed previously, an AEDM could be as simple as the calculation method that includes different part load loss coefficients. If such data are available to manufacturers, there should be no additional burden. If such data are not available, manufacturers can rely on the calculation method.

H. Test Procedure for Other Expanded Scope Pumps

DOE has evaluated the amended test procedure as proposed in the April 2022 NOPR to determine if modifications are necessary to accommodate RSH, and VT pumps, pumps designed to operate with 6-pole induction motors, and pumps designed to operate with non-induction motors with an operating range greater than or equal to 960 rpm and less than 1,440 rpm (''pumps tested with a nominal speed of 1,200 rpm''). 87 FR 21268, 21302–21303.

1. Testing Other Expanded Scope Pumps to HI 40.6

In the April 2022 NOPR, DOE tentatively determined that the amended test procedure is applicable to BB, RSH, and VT pumps, as well as to pumps tested with a nominal speed of 1,200 rpm for determining pump performance. 87 FR 21268, 21302. As discussed in section III.C.1, DOE is updating its test procedure to reference HI 40.6–2021. In the April 2022 NOPR, DOE requested comment on its proposed test procedure for BB, RSH, and VT pumps. 87 FR 21268, 21303. Grundfos agreed that the proposed test procedure for BB, RSH, and VT pumps is appropriate. (Grundfos, No. 31 at p. 8) HI commented that, in general, BB, RSH, and VT pumps can be tested using HI 40.6–2021 without modification. (HI, No. 33 at p. 1, 8) HI also commented that HI 40.6–2021 is fully applicable to VS1 and VS3 [35] pump types. (HI, No. 33 at pp. 2–3) HI stated that in general, for any discharge through column pump, DOE must focus on bowl or pump efficiency that excludes the column friction losses and line-shaft bearing losses. *Id.*

China recommended that DOE use the current test procedure for testing RSH pumps since RSH pumps work similarly to RSV pumps. (China, No. 29 at p. 4) DOE interprets the comment from China to mean that the test procedure for RSV pumps should be identical to that for

[35] VS1 and VS3 pumps are HI pump categories that meet the DOE definition of a vertical turbine pump.

RSH pumps, which is consistent with DOE's proposal in the April 2022 NOPR.

The CA IOUs and China agreed that HI 40.6–2021, as written, can be used to test between bearing pumps. (CA IOUs, No. 32 at p. 3; China, No. 29 at p. 4) HI explained that there are two industry definitions for determining specific speed that potentially apply to BB pumps. (HI, No. 33 at p. 1) HI encouraged DOE to clarify in its data gathering for BB pumps that BEP flow rate used to determine specific speed for double-inlet impellers products is calculated using BEP flow divided by 2. *Id.* Further, HI stated that BB1 pumps are not as abundant as other in-scope pumps, and there will be limited samples available for testing of basic models. *Id.*

DOE acknowledges that VT pumps are sold in many configurations, making it unrealistic to consider all potential shaft depths during testing. To clarify DOE's intent and to reduce unnecessary test burden, DOE is therefore revising the test procedure language proposed in the April 2022 NOPR to explicitly state that when testing VT pumps, only the bowl performance should be measured, as specified in section 40.6.4.1 of HI 40.6–2021.

Since DOE is not including BB pumps in the scope of this test procedure, DOE is not adopting any changes to the calculation of specific speed.

Aside from the minor revisions discussed in the preceding paragraphs, DOE is adopting the remainder of the test procedures for RSH, and VT pumps, as well as to pumps tested with a nominal speed of 1,200 rpm as proposed in the April 2022 NOPR.

2. Testing Other Expanded Scope Pumps With Motors

As discussed in section III.F, the pumps test procedure contains methods for determining PEI using either a calculation-based or a testing-based method. In the April 2022 NOPR, DOE tentatively determined that these calculation- and testing-based methods are applicable to BB, RSH, and VT pumps, as well as pumps tested with a nominal speed of 1,200 rpm and would be applied in the same way that they are applied to other pumps. DOE understands that the motors paired with BB, RSH, and VT pumps are typically similar to those paired with pumps that are currently in scope. 87 FR 21268, 21302. As such, DOE tentatively determined that Table 1 and the relevant test and calculation options are appropriate for these expanded scope pumps and that no modifications are needed. 87 FR 21268, 21303.

In the April 2022 NOPR, DOE requested comment on whether motors typically sold with BB, RSH and VT pumps are subject to DOE's electric motor standards. 87 FR 21268, 21303. *See* 10 CFR 431.25. In response, HI agreed that the motors sold with BB, RSH, and VT pumps are currently regulated motors, and that Table 1 with relevant calculation and testing options are appropriate. (HI, No. 33 at p. 8).

DOE has determined that Table 1 and the relevant test and calculation options as adopted in this final rule are appropriate for these expanded scope pumps.

In the April 2022 NOPR DOE tentatively determined that the existing test procedure references to 10 CFR 431.25 for nominal full load motor efficiencies are appropriate for 6-pole motors since 10 CFR 431.25 includes efficiencies for 6-pole motors. 87 FR 21268, 21303. Additionally, DOE determined that the part-load loss factors in Table 4 of appendix A, as proposed in the April 2022 NOPR are appropriate. *Id.* As a result, DOE did not propose to revise these references and part load loss factors.

The current DOE test procedure references Table 2 of appendix A for determining default full load submersible motor efficiencies. Table 2 does not currently provide default full load submersible motor efficiencies for 6-pole motors. In the April 2022 NOPR, DOE proposed to expand Table 2 to include such values. 87 FR 21268, 21303.

DOE requested comment on its proposed default submersible motor efficiency values for 6-pole motors in the April 2022 NOPR. 87 FR 21268, 21303. In response, HI stated it does not have sufficient data to provide a response since the number of 6-pole ST pumps sold is very small and it does not expect that regulating 6-pole ST pumps will result in any measurable energy savings (HI, No. 33 at p. 8).

DOE did not receive any alternative 6-pole motor coefficients or data to support the development of 6-pole submersible motor coefficients. As such, DOE is adopting the 6-pole submersible motor coefficients as proposed in the April 2022 NOPR. As discussed in section III.F.3, Table 2 may be replaced with energy conservation standard values for submersible motors if such standards are ever developed and adopted.

DOE acknowledges that ST pumps that use 6-pole motors are not common; however, to ensure consistent coverage across ST pump families, prevent potential loopholes, and provide consumers with information to compare the performance of these pumps, DOE is including them in the scope of this test procedure. DOE will evaluate potential energy savings in the ongoing pumps energy conservation standards rulemaking.

I. Sampling Plan, AEDMs, Enforcement Provisions, and Basic Model

1. Sampling Plan for Determining Represented Values

DOE currently provides sampling plans for all covered equipment that manufacturers must use when certifying their equipment as compliant with the relevant standards and when making written representations of energy consumption and efficiency. (*See generally* 10 CFR parts 429 and 431) In the April 2022 NOPR, DOE stated that SVIL, RSH, VT, and BB pumps are expected to have the same testing uncertainty and manufacturing variability as IL, RSV, ST and end-suction pumps, respectively, since they are similar in construction and design and would apply the same test procedure under DOE's proposal. 87 FR 21268, 21303. Additionally, DOE discussed in the April 2022 NOPR that it expects pumps tested at a nominal speed of 1,200 rpm would have the same testing uncertainty and manufacturing variability as pumps that are currently regulated and tested at nominal speeds of 1,800 rpm and 3,600 rpm. *Id.*

In the April 2022 NOPR, DOE requested comment on whether SVIL, BB, RSH, VT, and pumps tested at a nominal speed of 1,200 rpm have the same testing uncertainty and manufacturing variability as currently regulated pumps. 87 FR 21268, 21303. DOE also requested comment on its proposal to adopt the same statistical sampling plans which are currently in place for commercial industrial pumps for SVIL, BB, RSH, VT, and pumps tested at a nominal speed of 1,200 rpm. *Id.*

HI and Grundfos agreed that testing uncertainty and manufacturing variability are similar for expanded-scope pumps and for those currently in scope, and that it is reasonable to adopt the same statistical sampling plans for the expanded-scope pumps. (HI, No. 33 at p. 8; Grundfos, No. 31 at p. 8)

In this final rule, DOE is adopting the statistical sampling plans for expanded-scope pumps (*i.e.,* SVIL, RSH, VT, and 1,200 rpm pumps) as proposed in the April 2022 NOPR.

For purposes of certification testing, determining whether a basic model complies with the applicable energy conservation standard is based on

testing using the DOE test procedure and sampling plan. The general sampling requirement currently applicable to all covered products and equipment provides that a sample of sufficient size must be randomly selected and tested to ensure compliance and that, unless otherwise specified, a minimum of two units must be tested to certify a basic model as compliant. 10 CFR 429.11. This minimum is implicit in the requirement to calculate a mean—an average—that requires at least two values. However, if only one unit of a basic model is produced, that single unit must be tested, and the test results must demonstrate that the basic model performs at or better than the applicable standards. *Id.* Subsequently, if one or more units of the basic model are manufactured, compliance with the default sampling and representations provisions is required. *Id.*

In the April 2022 NOPR, DOE proposed to expand the requirements in 10 CFR 429.11 to SVIL, BB, RSH, VT, and 1,200 rpm pumps. 87 FR 21268, 21303. DOE discussed that manufacturers may need to test a sample of more than two units depending on the variability of their sample, as provided by the statistical sampling plan. *Id.*

Additionally, the current certification requirements state that other performance parameters derived from the test procedure must be reported, but provides no sampling plan for these other parameters, which include: pump total head in feet at BEP and nominal speed, volume per unit time (*i.e.,* flow rate) in gallons per minute at BEP and nominal speed, and calculated driver power input at each load point (*i.e.,* corrected to nominal speed in horsepower). 10 CFR 429.59(b)(2).

Regarding representative values other than PEI and PER, DOE proposed in the April 2022 NOPR that if more than one unit is tested for a given sample, represented values (other than PEI and PER) would be determined using the arithmetic mean of the individual units. 87 FR 21268, 21303. For example, if three units are tested for a given sample, and pump total head at BEP is measured at 99.1 ft, 96.2 ft, and 97.3 ft, the reported values for head would be the sum of the three values divided by three (*i.e.,* 97.5 ft). *Id.* This proposal applied to both the existing and proposed expanded scope of pumps that would be addressed by the pumps test procedure. *Id.*

In the April 2022 NOPR, DOE requested comment on its proposed statistical sampling procedures and representation requirements for SVIL, BB, RSH, VT, and 1,200 rpm pumps. 87 FR 21268, 21303. Grundfos agreed with the proposal. (Grundfos, No. 31 at p. 9) HI stated that 1,200 rpm pumps will take longer and cost more to manufacture and test since they are physically larger pumps. (HI, No. 33 at p. 8) HI additionally commented that two samples will not be available for test in many cases, in which case published data will be the result of a single sample. (HI, No. 33 at p. 8) As discussed previously, the language in 10 CFR 429.11 addresses the sampling plan for a basic model when only a single sample is available for test. Further, as discussed in section III.I.2, DOE is adopting AEDM provisions that allow a pump manufacturer to certify basic models, including low-volume basic models, using a validated AEDM.

In this final rule, DOE is adopting the statistical sampling procedures and representation requirements for SVIL, RSH, VT, and 1,200 rpm pumps as proposed in the April 2022 NOPR. Since DOE is not including BB pumps in the scope of this test procedure, DOE is not adopting statistical sampling procedures for them.

2. Alternative Efficiency Determination Methods

Pursuant to the requirements of 10 CFR 429.70, DOE may permit use of an AEDM in cases where actual testing of regulated equipment may present considerable burdens to a manufacturer and use of that AEDM can reasonably predict the equipment's energy efficiency performance. Although specific requirements vary by product or equipment, use of an AEDM entails development of a mathematical model that estimates energy efficiency or energy consumption characteristics of the basic model, as would be measured by the applicable DOE test procedure. The AEDM must be based on engineering or statistical analysis, computer simulation or modeling, or other analytic evaluation of performance data. A manufacturer must validate an AEDM by demonstrating that its predicted efficiency performance of the evaluated equipment agrees with the performance as measured by actual testing in accordance with the applicable DOE test procedure. The validation procedure and requirements, including the statistical tolerance, number of basic models, and number of units tested vary by product.

Once developed, an AEDM may be used to represent the performance of untested basic models in lieu of physical testing. Use of an AEDM for any basic model is optional. One potential advantage of an AEDM is that it may free a manufacturer from the burden of physical testing—but this advantage must be weighed against the potential risk that an AEDM may not perfectly predict performance and could result in a finding that the equipment has an invalid rating and/or that the manufacturer has distributed a noncompliant basic model. The manufacturer, by using an AEDM, bears the responsibility and risk of the validity of the ratings, including cases where the manufacturer receives and relies on performance data for certain components from a component manufacturer.

Given stakeholder requests for the calculation methods to be more representative, and to balance the risk of allowing overrating through calculation methods, DOE proposed allowing manufacturers to use AEDMs to determine performance ratings for pumps in the April 2022 NOPR. 87 FR 21268, 21304. DOE requested feedback regarding all aspects of its proposal to permit use of an AEDM for pumps. 87 FR 21268, 21305. DOE specifically sought comment on its proposed validation classes, and whether groupings should be considered where performance variation between two equipment classes or nominal speeds is well established. *Id.* In addition, DOE requested comment on whether the calculation-based methods would still be necessary if manufacturers were permitted to use AEDMs in addition to physical testing. *Id.*

In the NOPR public meeting, ebm-pabst asked if it is possible to keep AEDM information proprietary between the manufacturer and DOE or if it would be public knowledge. (ebm-pabst, Public Meeting Transcript, No. 35 at p. 41) DOE notes that AEDM information provided to DOE is not publicly available.

In response to the April 2022 NOPR, HI and Grundfos supported the use of AEDMs. (HI, No. 33 at p. 9; Grundfos, No. 31 at p. 9) However, HI and Grundfos encouraged DOE to maintain the current calculation option since they believe it is less burdensome than an AEDM. *Id.* HI and Grundfos further stated that DOE should consider removing the calculation methods only when AEDMs are being used by all manufacturers for all reporting. *Id.* Additionally, HI and Grundfos expressed general agreement with the proposed validation classes. *Id.*

The Efficiency Advocates commented that the calculation-based approach in the DOE test method and AEDMs proposed by DOE can be used in lieu of physical testing to help mitigate the

burden of testing the larger pumps. (Efficiency Advocates, No. 30 at p. 3)

In this final rule, DOE is adopting provisions in 10 CFR 429.59(i) that allow the use of AEDMs for pumps as proposed in the April 2022 NOPR. Additionally, DOE is maintaining the calculation methods in the test procedure.

3. Enforcement Provisions

Enforcement provisions govern the process DOE would follow when performing an assessment of basic model compliance with standards, as described under subpart C of part 429. Specifically, subpart C of part 429 describes the notification requirements, legal processes, penalties, specific prohibited acts, and testing protocols related to testing covered equipment to determine or verify compliance with standards.

In the April 2022 NOPR, DOE proposed to apply the same general enforcement provisions contained in subpart C of part 429 to the proposed expanded scope of pumps. 87 FR 21268, 21305. Additionally, DOE proposed in the product-specific enforcement provisions in 10 CFR 429.134(i) that DOE will test each pump unit according to the test method specified by the manufacturer, and if the model of pump unit was rated using an AEDM, DOE may conduct enforcement testing using either a testing approach or calculation approach. *Id.*

In the April 2022 NOPR, DOE requested comment on its enforcement provision proposals. 87 FR 21268, 21305. In response, Grundfos agreed with the proposal but stated that DOE needs to clearly state that enforcement for AEDM reported products will apply the AEDM tolerances. (Grundfos, No. 31 at p. 9) Similarly, HI agreed with the standard enforcement requirements in 10 CFR 429, subpart C for expanded scope pumps but suggested the following modification to clause ii: DOE will test each pump unit according to the test method specified by the manufacturer in the certification report submitted pursuant to § 429.59(b); if the model or pump unit was rated using an AEDM, DOE may use either a testing approach or calculation approach using the basic model tolerances found at 429.70(i)(2)(ii). (HI, No. 33 at p. 9)

In response to the comments from HI and Grundfos, DOE notes that an AEDM is a mathematical model that a manufacturer develops to accurately represent the tested performance of a specific pump validation class. To validate an AEDM, the manufacturer must test at least two basic models within a given validation class (*see* 10 CFR 429.70(j)(2)(i)). If the PEI calculated by the AEDM is no more than five percent less than the tested PEI, the AEDM has been validated (*see* 10 CFR 429.70(j)(2)((ii)). If the PEI calculated by the AEDM is more than five percent less than the tested PEI, the AEDM is not validated and will need to be revised and compared to tested results until it is not more than five percent less than the tested PEI. For example, if tested PEI is equal to 1.0 and AEDM results are 0.97, the AEDM would be considered valid; however, if tested PEI is equal to 1.0 and AEDM results are 0.94, the AEDM is not valid. When certifying basic models through testing, DOE specifies the determination of represented value in 10 CFR 429.59(a). When determining representations for basic models using an AEDM, it is the manufacturer's responsibility to ensure that the represented value is consistent with the requirements in 10 CFR 429.59(a).

The previous paragraph addresses manufacturer responsibilities, specifically validation of an AEDM and represented values. DOE is also adopting provisions at 10 CFR 429.70(j)(5) to describe how DOE may conduct testing on individual pump models to verify basic model compliance with an energy consumption standard. DOE emphasizes that this compliance enforcement is separate and distinct from manufacturer certification requirements. 10 CFR 429.7(j)(5)(v) specifies that the result of a DOE verification test must be less than or equal to the certified rating multiplied by (1 + the applicable tolerance), where the applicable tolerance is 5 percent (*see* Table 4 to paragraph (j)(5)(vi)). Therefore, if results of an individual model tested by DOE are greater than 1.05 percent of a manufacturer's certified rating (*i.e.,* the value the manufacturer certifies to DOE), this model's certified rating would be invalid, and DOE would pursue the actions listed in 10 CR 429.70(j)(v). For example, if a manufacturer were to certify a pump basic model with a PEI equal to 0.94 and DOE testing yields a PEI of 0.97, DOE would consider the model to meet its certified rating, since 0.97 is less than 1.05 percent of the certified PEI value of 0.94 (1.05 multiplied by 0.94 is 0.987). However, if DOE testing were to yield a PEI of 0.99, DOE would consider the model's certified rating to be invalid.

In sum, DOE is adopting the five percent tolerance for both AEDM validation and AEDM verification testing. DOE is also adopting product-specific enforcement provisions at 10 CFR 429.134 to specify that DOE will test each pump unit according to the test method specified by the manufacturer, and for pumps rated using an AEDM, DOE may conduct enforcement testing using either a testing approach or calculation approach.

4. Basic Model Definition

As discussed in the April 2022 NOPR, pump manufacturers may elect to group similar individual pump models within the same equipment class into the same basic model to reduce testing burden, provided all representations regarding the energy use of pumps within that basic model are identical and based on the most consumptive unit. 87 FR 21268, 21305. Accordingly, manufacturers may pair a given bare pump with several different motors (or motor and controls) and can include all combinations under the same basic model if the certification of energy use and all representations made by the manufacturer are based on the most consumptive bare pump/motor (or motor and controls) combination for each basic model and all individual models are in the same equipment class. 86 FR 20075, 20083–20084.

In the case of pumps, ''basic model'' means all units of a given class of pump manufactured by one manufacturer, having the same primary energy source, and having essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and, in addition, for pumps that are subject to the standards specified in § 431.465(b), the following provisions in § 431.462 apply:

(1) All variations in numbers of stages of bare RSV and ST pumps must be considered a single basic model;

(2) Pump models for which the bare pump differs in impeller diameter, or impeller trim, may be considered a single basic model; and

(3) Pump models for which the bare pump differs in number of stages or impeller diameter, and which are sold with motors (or motors and controls) of varying horsepower may only be considered a single basic model if:

(i) For ESCC, ESFM, IL, and RSV pumps, each motor offered in the basic model has a nominal full load motor efficiency rated at the Federal minimum (see the current table for NEMA Design B motors at § 431.25) or the same number of bands above the Federal minimum for each respective motor horsepower (see Table 3 of appendix A); or

(ii) For ST pumps, each motor offered in the basic model has a full load motor efficiency at the default nominal full load submersible motor efficiency shown in Table 2 of appendix A to or the same number of bands above the default nominal full load submersible motor efficiency for each

respective motor horsepower (see Table 3 of appendix A).

10 CFR 431.462.

Clauses (1) and (2) of the basic model definition, which are applicable to pumps that are subject to the standards specified in 10 CFR 431.465(b), align the scope of the ''basic model'' definition for pumps with the requirements that testing be conducted at a certain number of stages for RSV and ST pumps and at full impeller diameter. 10 CFR 431.462. Clause (3) of the definition, applicable to pumps that are subject to the standards specified in 10 CFR 431.465(b), addresses basic models inclusive of pump models for which the bare pump differs in number of stages or impeller diameter. *Id.* Specifically, variation in motor sizing (*i.e.,* variation in the horsepower rating of the paired motor as a result of different impeller trims or stages within a basic model) is not a basis for requiring units to be rated as unique basic models. However, variation in motor sizing may also be associated with variation in motor efficiency, which is a performance characteristic; typically, larger motors are more efficient than smaller motors. 86 FR 20075, 20084.

In the April 2022 NOPR, DOE stated that for motors not currently subject to the DOE test procedure for electric motors, it is not clear how manufacturers would determine the full-load efficiency of a given motor, or specifically, determine the number of bands above the Federal minimum or, for submersible pumps, above the default efficiency. 87 FR 21268, 21306–21307. For inverter-only motors, DOE noted that the IEC recently published an industry test procedure that provides test methods for measuring the efficiency of these motors: IEC 60034–2–3:2020, ''Rotating electrical machines—Part 2–3: Specific test methods for determining losses and efficiency of converter-fed AC motors'' (''IEC 60034'') and IEC 61800–9–2:2017. *Id.*

DOE proposed in the April 2022 NOPR that PER_{STD} for inverter-only motors would still be based on DOE's standards for NEMA Design B motors. 87 FR 21268, 21307. Additionally, DOE proposed to amend clause (3) for inverter-only motors so that the current band rule does not apply, and instead the grouping can be based on anything above the Federal minimum for NEMA Design B motors as long as the rating is based on the lowest number of bands above the minimum. *Id.*

In the April 2022 NOPR, following consideration of stakeholder's comments, DOE did not propose to allow the grouping of single-phase and polyphase products into a single basic model. 87 FR 21268, 21307. Instead, DOE proposed to require that pumps sold with single-phase motors can continue to be rated as bare pumps (with the exception of SVIL as discussed in section III.G). *Id.*

DOE requested comment on its proposed amendments to the definition of the basic model in the April 2022 NOPR. 87 FR 21268, 21307. In response, HI and Grundfos stated that they agreed with the proposed amendments to the basic model but recommended adding the models in the proposed scope expansion to the basic model definition if/when the expanded scope pumps are added. (HI, No. 33 at p. 9; Grundfos, No. 31 at p. 9)

Grundfos disagreed with DOE's interpretation of how horsepower affects multi-stage pump basic models. (Grundfos, No. 31 at p. 11) This comment is discussed in detail in section III.A.4.d as it pertains to the scope of this test procedure.

Additionally, Grundfos recommended DOE change clause (3) of the basic model definition. (Grundfos, No. 31 at p. 5) Grundfos commented that it finds certain applications of bowl assemblies could lead to a product where both impeller trim and motor size vary. *Id.* Grundfos recommended that DOE change clause (3) to read: ''Pump models for which the bare pump differs in number of stages and/or impeller diameter . . .'' *Id.* The current clause only includes ''or,'' which would imply the only allowance is either in the number of stages or impeller trim when it could be both. *Id.* DOE agrees with the clarification Grundfos offers and is revising the definition for basic model as Grundfos recommends.

DOE will address expanded scope pumps in the basic model definition in any future rulemaking related to the certification of these pumps.

J. Representations of Energy Use and Energy Efficiency

DOE understands manufacturers often make representations (graphically or in numerical form) of energy use metrics, including pump efficiency, overall (wire-to-water) efficiency, bowl efficiency, driver power input, pump power input (brake or shaft horsepower), and/or pump power output (hydraulic horsepower). Manufacturers often make these representations at multiple impeller trims, operating speeds, and number of stages for a given pump. In the April 2022 NOPR, DOE proposed to allow manufacturers to continue making these representations to ensure consistent and standardized representations across the pump industry. 87 FR 21268, 21308. To ensure such representations are not in conflict with the reported PEI for any given pump model, DOE proposed to establish optional testing procedures for these parameters that are part of the DOE test procedure. *Id.* DOE also proposed that, to the extent manufacturers wish to make representations regarding the performance of pumps using these additional metrics, they would be required to do so based on testing in accordance with the DOE test procedure. *Id.*

In the April 2022 NOPR, DOE requested comment on its proposal to adopt optional test provisions for the measurement of overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower). 87 FR 21268, 21308. Grundfos commented that it has concerns with these proposed revisions since the testing is conducted only against a basic model and does not cover the full performance range for all possible individual models that a basic model represents. (Grundfos, No. 31 at p. 9) HI agreed that representations should be consistent, but also suggested that DOE allow pump manufacturers to represent data over the full performance range, including trims of the impeller and cases where the maximum or minimum speed range is outside the rated nominal speed range (*i.e.,* a pump within scope but with an operating speed range that goes above 4,320 rpm). (HI, No. 33 at p. 9)

DOE also requested comment on its understanding that HI 40.6–2021 contains all the necessary methods to determine overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower) and that further specification is not necessary. HI and Grundfos agreed that HI 40.6–2021 provides all the necessary methods. (HI, No. 33 at p. 9; Grundfos, No. 31 at p. 9)

After further review and consideration of stakeholder comments, DOE has determined that any requirements for additional representations of pump energy use and energy efficiency will not be addressed in the current rulemaking. Specifically, in order to meet its stated goal of ensuring representations of metrics other than PEI are not in conflict with the reported PEI for any given pump model, it would only be necessary to finalize provision related to metrics used in the determination of PEI, which would include driver input power at load points used in the determination of PEI. However, given that these metrics are a component of PEI, they must

already be determined in accordance with the DOE test procedure including relevant provisions of HI 40.6–2021. For these reasons, DOE is not finalizing its proposal with respect to optional representations.

K. Test Procedure Costs and Harmonization

EPCA requires that test procedures proposed by DOE not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) The following sections discuss DOE's evaluation of estimated costs and savings associated with the final amendments.

1. Test Procedure Costs and Impact

In the April 2022 NOPR, DOE proposed to amend the existing test procedure at appendix A for pumps by: (1) expanding the scope to include SVIL pumps; (2) expanding the scope to include other specified clean water pumps; (3) reducing the pump bowl diameter restriction to include more ST pumps; (4) changing the definitions of ESFM and ESCC pumps to cover all end-suction pumps; (5) incorporating a nominal speed of 1,200 rpm, in addition to 1,800 rpm and 3,600 rpm; (6) providing a calculation method for pumps sold with inverter-only motors; and (7) updating the part-load loss coefficients for pumps sold with induction motors. 87 FR 21268, 21309. DOE has determined that the test procedure finalized in this notice will not be unduly burdensome for manufacturers to conduct. Further discussion of the cost impacts of the test procedure amendments are presented in the following paragraphs.

In the April 2022 NOPR, DOE requested comment on whether pump manufacturers had to limit any pump features due to the time and cost of evaluating pumps performance according to DOE's current test procedure, including, but not limited to, the nature of the features that manufacturers have had to forego providing, the extent of the limits that manufacturers have had to place, and the manner in which manufacturers have had to apply these limits—such as on the basis of intended markets (*e.g.,* higher-end vs. budget-end). 87 FR 21268, 21309. DOE also requested information regarding how these burdens may be mitigated to reduce the likelihood of manufacturers having to limit the inclusion of features with their pumps. *Id.*

In response, Grundfos stated it has limited modifications to and restricted sales of certain equipment because of the testing burden created by DOE's regulations. (Grundfos, No. 31 at p. 10) HI commented that manufacturers have chosen to limit modifications to equipment (*i.e.,* new casting forms, engineered-to-order product, alternative/new VFD or motor technology) because it poses a substantial testing burden. (HI, No. 33 at p. 9) HI asserted that these limitations impact end users because they result in pump manufacturers providing fewer product offerings, and because testing results in excessive lead times. *Id.*

DOE notes that pump manufacturers must comply with the energy conservation standards that were established in 2016 and required compliance beginning on January 27, 2020. 81 FR 4368 (January 26, 2016) (''January 2016 ECS Final Rule''). First-time compliance costs associated with meeting those energy conservation standards included testing costs, potential capital costs, and other one-time manufacturer costs associated with developing a testing and certification protocol. DOE also recognizes that the current test procedure does not provide a calculation method for pumps sold with motors that do not have a DOE energy efficiency standard; therefore, for pumps that rely on such motors, wire-to-water testing is required for each basic model. Finally, DOE notes that for all pumps currently subject to the energy conservation standards, the applicable energy efficiency values must be determined for all basic models according to the DOE test procedure, which includes the calculation method for certain pumps.

In the April 2022 NOPR, DOE estimated a per unit test cost of $1,600, and estimated that 59 percent of the models certified in DOE's Compliance Certification Database (''CCD'') were certified using the calculation-based approach. 87 FR 21268, 21309. DOE estimated that it would take a mechanical engineer two hours to calculate and determine a rating for each basic model. *Id.* Assuming a fully burdened engineering hourly wage of $66.16,[36] DOE estimates the labor cost of performing the pump calculation method to be $132.31 per basic model. These cost estimates apply to the discussion in the following sections.

DOE has determined that the test procedure amendments in this final rule will impact testing costs as discussed in the following sections.

a. Scope Expansion

In the April 2022 NOPR, DOE proposed to expand the scope of this test procedure to include SVIL pumps, other specified clean water pumps, ST pumps with bowl diameters greater than 6 inches, currently uncovered end-suction pumps, and pumps designed to operate with a 6-pole induction motor or with a non-induction motor with an operating range that includes speeds of rotation between 960 and 1,440 rpm. 87 FR 21268, 21273–21281. DOE also assumed a sampling plan consistent with that for pumps currently subject to the test procedure, which requires a sample size of at least two units per pump basic model be tested when determining representative values of PEI, as well as other pump performance metrics. 87 FR 21268, 21303. Additionally, DOE assumed that manufacturers would test pumps in-house. 87 FR 21268, 21310. To test a pump in-house, each manufacturer might have to undertake the construction and maintenance of a test facility that is capable of testing pumps in compliance with the test procedure, including acquisition and calibration of any necessary measurement equipment. *Id.* DOE also assumed that manufacturers have a pump test facility available but may not have the equipment required to conduct the DOE test procedure and that the cost of purchasing such equipment is approximately $4,000 based on a review of available testing equipment on the market. *Id.*

In the April 2022 NOPR, DOE assumed that pump manufacturers who are member companies of HI or who conduct testing in accordance with the January 2016 Final Rule for other product offerings already conduct testing in accordance with HI 40.6–2014, and would not incur any additional capital expenditures to be able to conduct the proposed DOE pump test procedure. 87 FR 21268, 21310. Pump manufacturers who are not members of HI may need to purchase electrical measurement equipment with plus or minus 2 percent accuracy to conduct the pump test procedure. In the April 2022 NOPR, DOE estimated that calibrating the flowmeter, torque sensor, power quality meter, pressure transducer, and laser tachometer, together, will cost a manufacturer about $1,250 per year. *Id.*

[36] DOE used the mean hourly wage of $46.64, taken from BLS's ''Occupational Employment and Wages, May 2021'' using the Occupation Profile of ''Mechanical Engineers'' (17–2141). *See: www.bls.gov/oes/current/oes172141.htm.* Last accessed on October 11, 2022.

Additionally, DOE used data from the ''Employer Costs for Employee Compensation—June 2022'' to estimate that a Private Industry Worker's wages and salary are 70.5% of an employee's total compensation. *See: www.bls.gov/news.release/pdf/ecec.pdf.* Last accessed on October 11, 2022.

Therefore, total employer hourly cost is $66.16 = $46.64 ÷ 0.705.

DOE requested comment on its assumptions and understanding of the anticipated impact and potential costs to pump manufacturers if DOE expands the scope of the pumps test procedure. 87 FR 21268, 21310. Additionally, DOE requested comment on any potential cost manufacturers may incur, if any, from this NOPR's proposed scope expansion. *Id.*

In response, HI and Grundfos stated that adding additional pump categories to the test procedure scope will increase burden on manufactures due to annual recertification, surveillance, testing, reporting, and documentation burden. (HI, No. 33 at p. 10; Grundfos, No. 31 at p. 10) HI also commented that larger pumps with higher flow rates within the proposed scope expansion may require different testing infrastructure and instrumentation with substantial capital investment required. (HI, No. 33 at p. 10) Specifically, HI stated that BB1 pumps are considerably larger, and the cost and burden associated with testing BB pumps will be significantly higher. (HI, No. 33 at p. 2) Grundfos stated adding 6-pole product requires upgrades to testing facilities and infrastructure that will increase costs. (Grundfos, No. 31 at p. 10)

DOE acknowledges that larger pumps may require additional investments in testing facilities. However, since no test cost data was provided by manufacturers, DOE was unable to adjust the test cost estimates for this final rule. DOE notes that it is not adopting the proposal to include ST and VT pumps with bowl diameters larger than 6 inches or BB pumps in the scope of this test procedure. Therefore, the burden associated with test facility modifications is reduced compared to the burden associated with the proposals in the April 2022 NOPR.

b. Calculation Method for Testing Pumps With Inverter-Only Motors

In the April 2022 NOPR, DOE proposed a calculation method for testing pumps with inverter-only motors. 87 FR 21268, 21310. The current test procedure does not include a calculation method for motors that do not have a DOE efficiency standard; therefore, manufacturers are required to conduct wire-to-water testing for pumps sold with these (*i.e.,* inverter) motors. Aside from the proposed calculation approach, the test procedure, metrics, and sampling plan for pumps remain consistent with the requirements established in the January 2016 Final Rule and, among other things, require a sample size of at least two units per pump basic model be tested when determining representative values of PEI, as well as other pump performance metrics.

For pumps already certified, DOE would not expect any additional costs to manufacturers. DOE has determined that the calculation method for inverter-only motors proposed in the April 2022 NOPR would provide results that are conservative when compared to results from wire-to-water testing, which is still an option in the test procedure. Consequently, DOE does not expect manufacturers will need to rerate their basic models. For new basic models where the bare pump is already certified (*i.e.,* the only change is in the inverter-only motor sold with the pump), DOE expects manufacturer cost to be the labor required to run the calculations (*i.e.,* $132.32 per basic model), providing an estimated savings of $3,070 per basic model (*i.e.,* test cost savings).[37] DOE expects that there would be no change in test cost for new bare pump basic models paired with an inverter-only motor, since the bare pump would still need to be tested.

In the April 2022 NOPR, DOE requested comment on its assumptions and understanding of the anticipated impact and potential cost savings to manufacturers of pumps sold with inverter-only motors if DOE were to adopt the proposed calculation method. 87 FR 21268, 21310. Additionally, DOE requested comment on any potential costs or savings that manufacturers may incur, if any, from this proposal. *Id.*

In response, Grundfos and HI agreed that there will be reduced testing burden and cost savings. (HI, No. 33 at p. 10; Grundfos, No. 31 at p. 10) HI additionally estimated that the reduction of testing burden associated with consolidation can range from 2 to 8 basic models. (HI, No. 33 at p. 10) HI also recommended that DOE consider other actions to reduce test cost such as sample pumps, management of basic models, other indirect labor, etc. *Id.*

DOE has concluded that the adopted calculation method for inverter-only motors will significantly reduce test burden. DOE may consider the additional actions to reduce test cost recommended by HI in a future test procedure rulemaking.

c. Updated Calculation Method for Testing Pumps With Induction Motors

In the April 2022 NOPR, DOE proposed an updated calculation method for testing pumps with induction motors. 87 FR 21268, 21310. The updated calculation method provides less conservative part-load loss coefficients than those provided in the current test procedure; however, DOE tentatively determined that the coefficients would still be conservative relative to wire-to-water testing. *Id.* Aside from the updated part-load motor coefficients, the test procedure, metrics, and sampling plan for pumps remains consistent with the requirements established in the January 2016 Final Rule and, among other things, requires that a sample size of at least two units per pump basic model be tested when determining representative values of PEI, as well as other pump performance metrics. *Id.*

In the April 2022 NOPR, DOE also explained that, for pumps already certified, DOE does not expect any additional costs to manufacturers since the current calculation method provides the most conservative results. 87 FR 21268, 21310. DOE expects that there will be no change in test cost for new bare pump basic models paired with an induction motor, since the bare pump will need to be tested. *Id.*

In the April 2022 NOPR, DOE requested comment on its assumptions and understanding that there will be no cost impact to manufacturers if DOE adopts the proposed updated coefficients for part-load motor losses. 87 FR 21268, 21310. Additionally, DOE requested comment on any potential costs or savings that manufacturers may incur, if any, from this proposal. *Id.*

HI and Grundfos responded that there would be some cost to update procedures and calculators to reflect the revised method. (HI, No. 33 at p. 10; Grundfos, No. 31 at p. 10) Specifically, Grundfos expected no manufacturer cost savings associated with this change. (Grundfos, No. 31 at p. 10) HI said that because the revised method can provide a better PEI, manufacturers who want to improve their PEI representation will have costs associated with updating representations in marketing, nameplates, and certification of data. (HI, No. 33 at p. 10)

DOE notes that it is primarily concerned with increased test costs associated with a test procedure revision that would require manufacturers to retest and recertify their basic models. In this case, DOE understands that manufacturers would be voluntarily recertifying certain basic models for marketing purposes only.

d. Additional Amendments

DOE does not anticipate that the remaining amendments, proposed in the April 2022 NOPR and as follows, would impact test costs.

[37] As previously stated, DOE estimated that the per unit test cost is $1,600 and at least two units need to be tested. Therefore, the calculation method is estimated to save approximately $3,070 = ($1,600 × 2) − $132.32.

(1) Incorporate by reference HI 40.6–2021 into 10 CFR 431.463;

(2) Remove the incorporations by reference of ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014;

In the April 2022 NOPR DOE tentatively determined that manufacturers would be able to rely on data generated under the current test procedure and would not have to retest for reporting, certification or labeling purposes. 87 FR 21268, 21310. DOE maintains that determination in this final rule.

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that product during a representative average use cycle or period of use. *See* 10 CFR part 430, subpart C, appendix A, section 8(c). In cases where the industry standard does not meet EPCA's statutory criteria for test procedures, DOE will make modifications through the rulemaking process to these testing standards as needed to adopt the procedure as the DOE test procedure.

The current test procedure for pumps at subpart Y to part 431 incorporates by reference ANSI/HI 40.6–2014 for rotodynamic pump efficiency testing and ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 that includes pumps nomenclature and definitions. As discussed, the amendments finalized in this rule update the DOE test procedure to reference the most recent version of HI 40.6–2021. DOE is removing its reference ANSI/HI 1.1–1.2–2014 and ANSI/HI 2.1–2.2–2014 since these industry standards have been replaced by ANSI/HI 14.1–14.2–2019, which is in turn referenced by HI 40.6–2021. The industry standards that DOE is incorporating by reference in this document are summarized in section IV.N of this document.

In the April 2022 NOPR, DOE requested comment on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for pumps. 87 FR 21268, 21311. While DOE received no specific comments on the burdens associated with its proposal, both HI and Grundfos recommended that DOE incorporate ANSI/HI 14.1–14.2 instead of recreating definitions for regulatory clarity. (HI, No. 33 at p. 10; Grundfos, No. 31 at p. 10) Grundfos also recommended that DOE create its own terms when deviating from industry terms. (Grundfos, No. 31 at p. 10)

As discussed in section III.B.2, DOE notes that its definitional language must be clear and consistent on its own without references to industry standards. Therefore, DOE is not referencing ANSI/HI 14.1–14.2–2019 in its definitions.

L. Compliance Date

The effective date for the adopted test procedure amendment will be 30 days after publication of this final rule in the **Federal Register**. EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of the final rule in the **Federal Register**. (42 U.S.C. 6314(d)(1)) EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6314(d)(2) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. *Id.*

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in this preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *www.energy.gov/gc/office-general-counsel.* DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE has concluded that this rule will not have a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below.

DOE has recently conducted a focused inquiry into small business manufacturers of the equipment covered by this rulemaking. DOE used the Small

Business Administration's (''SBA'') small business size standards to determine whether any small entities would be subject to the requirements of the rule. The size standards are listed by North American Industry Classification System (''NAICS'') code as well as by industry description and are available at *www.sba.gov/document/support--table-size-standards.* Manufacturing commercial and industrial pumps is classified under NAICS 333914, ''measuring, dispensing, and other pumping equipment manufacturing.'' The SBA sets a threshold of 750 employees or fewer for an entity to be considered as a small business for this category. DOE used available public information to identify potential small manufacturers. DOE accessed the Compliance Certification Database [38] to create a list of companies that import or otherwise manufacture the equipment covered by this rulemaking . Once DOE created a list of potential manufacturers, DOE used market research tools to determine whether any met the SBA's definition of a small entity, based on the total number of employees for each company including parent, subsidiary, and sister entities.

Based on DOE's analysis, 46 companies potentially selling commercial and industrial pumps covered by this test procedure were identified. DOE screened out companies that do not meet the small entity definition, and additionally screened out companies that are largely or entirely foreign-owned and operated. Of the 46 companies, 21 were therefore further identified as a small business. Based on a review of publicly available model databases, DOE estimated the number of models currently covered by the test procedure for each small business, excluding four small businesses not reflected in the model databases. DOE attributes a total of 779 unique basic models of covered pumps to small businesses, ranging from one model to 503 models for an average of approximately 46 models per small business. DOE was able to find revenue estimates for all 21 small businesses.

DOE estimates that this test procedure would not require any manufacturer to incur any additional testing burden associated with the test procedure. If finalized, DOE recognizes that commercial and industrial pump energy conservation standards may be proposed or promulgated in the future and pump manufacturers would then be required to test all covered pumps in accordance with the test procedures. (*See* Docket No. EERE–2020–BT–STD–0013). Therefore, although such testing is not yet required, DOE is presenting the costs associated with testing equipment and procedure consistent with the requirements of the test procedure, as would be required to comply with any future energy conservation standards for pumps. Additionally, since the list of small businesses was drawn from manufacturers with products covered by the previous test procedure, DOE assumes that each noted small business already possesses the necessary equipment for testing under the test procedure. Impacts for each test procedure amendment are reviewed below:

SVIL Product Class Scope Expansion

DOE examined the websites and, when available, product catalogs of all previously identified 20 potential small businesses for listings of SVIL pumps. DOE identified two small businesses manufacturing SVIL pumps—producing an estimated total of 65 basic models, with one small business producing nine basic models and another producing as many as 56 basic models. DOE estimated that it would cost approximately $1,600 per unit tested—a sample of two units being required per basic model. Accordingly, all small businesses combined would incur costs of approximately $208,000—with the first small business incurring a cost of $28,800 and the second incurring a cost of $179,200. However, such testing would only be required upon the compliance date of any future energy conservation standard for SVIL pumps.

DOE was able to find revenue estimates for both small businesses. Testing costs for newly covered SVIL pumps represent significantly less than one percent of estimated annual revenue for one of the small businesses and would constitute as much as ten percent of estimated annual revenue for the small business producing 56 models.

Other Clean Water Pump Scope Expansion

DOE examined the websites and, when available, the product catalogs of all previously identified 21 potential small businesses for listings of any of the clean water pumps that are newly covered under this test procedure. DOE identified four small businesses manufacturing clean water pumps covered by this rulemaking that are not covered by the current test procedure. One of these manufacturers also produce SVIL pumps. Although a newly covered model count estimate was not possible for two small businesses, the remaining two small businesses produce an estimated total of 37 newly covered basic models, the first producing 15 basic models and the second producing 22 newly covered basic models. The first small business produces approximately 15 models that would fall under the 1,200 rpm scope expansion. With the second small business, approximately one-third of newly covered unique basic models are submersible pumps and two-thirds are vertical turbine pumps, several of which also fall under the 1,200 rpm scope expansion. DOE estimated that it would cost approximately $1,600 per unit tested—a sample of two being required per unique basic model. Accordingly, the small businesses combined would incur costs of approximately $118,400—with the first incurring a cost of $48,000and the second incurring a cost of $70,400. The first small business produces both SVIL pumps and newly covered clean water pumps and would incur an approximate total testing cost of $76,800.

DOE was able to find revenue estimates for both small businesses. Testing costs for newly covered clean water pumps represent significantly less than one percent of estimated annual revenue for both small businesses. However, such testing would only be required upon the compliance date of any future energy conservation standard for SVIL pumps.

Calculation Method Changes

Relative to the current test procedure calculation methodology, the calculation changes are conservative; therefore, manufacturers would not have to recalculate or re-rate existing models. Accordingly, DOE does not anticipate that updating the part-load loss coefficients for pumps sold with induction motors or providing a calculation method for pumps sold with inverter-only motors would impose any costs on small businesses when the test procedure is in force. Likewise, permitting the use of AEDMs in lieu of the calculation-based test is not expected to result in additional costs for affected small businesses, as they will continue to be able to employ the calculation-based test.

Conclusion

DOE identified a total of five small business OEMs affected by this final rule. The affected small businesses represent approximately 25 percent of all identified small business OEMs producing pumps covered under this rulemaking. DOE believes this to be a substantial number of affected small

[38] U.S. Department of Energy Compliance Certification Database, available at: *www.regulations.doe.gov/certification-data.*

entities in the context of the pumps industry. However, as noted previously, the presented costs would not be incurred as a result of this test procedure taking effect and are, with one exception, estimated to constitute less than one percent of the affected small businesses' revenue if DOE establishes energy conservation standards for pumps not currently subject to DOE's energy conservation standards.

Based on the de minimis cost impacts, DOE certifies that this final rule does not have a ''significant economic impact on a substantial number of small entities,'' and determined that the preparation of a FRFA is not warranted. DOE will transmit a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of pumps must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including pumps. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE is not amending the certification or reporting requirements for pumps in this final rule. Instead, DOE may consider proposals to amend the certification requirements and reporting for pumps under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB Control Number 1910–1400 at that time, as necessary.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE establishes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for pumps. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan

for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The modifications to the test procedure for pumps adopted in this final rule incorporates testing methods contained in certain sections of the following commercial standards: HI 40.6–2021, HI 9.6.1–2017, HI 9.6.6–2016, HI 9.8–2018, HI 14.1–14.2–2019, the HI Engineering Data Book, ANSI/ASME MFC–5M–1985, ASME MFC–3M–2004, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, ASME MFC–22–2007, AWWA E103–2015, CSA C390–10, IEEE 112–2017, IEEE 114–2010, ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017. DOE has evaluated these standards and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the following standards:

(1) HI 40.6–2021. This standard establishes testing protocols for testing of rotodynamic pumps for determination of pump efficiency in a uniform manner.

(2) ANSI/HI 9.6.1–2017. This standard, referenced in HI 40.6–2021, applies to rotodynamic pumps and defines calculation of net positive suction head (''NPSH'') margin and recommends NPSH margin for these pumps based on specific application considerations, pump design, and the flow relative to the BEP.

(3) ANSI/HI 9.6.6–2016. This standard is referenced in HI 40.6–2021 and details pump piping requirements for rotodynamic pumps and effects of inlet/outlet piping on pump performance.

(4) ANSI/HI 9.8–2018. This standard is referenced in HI 40.6–2021 and discusses appropriate design for various pump intakes.

(5) ANSI/HI 14.1–14.2–2019. This standard is referenced in HI 40.6–2021 and covers types, nomenclature, and definitions for commercial and industrial pump types.

(6) HI Engineering Data Book—Second Edition. This document is referenced in HI 40.6–2021 and covers fluid

characteristics, fluid flow, and characteristics of piping materials.

Copies of HI 40.6–2021, ANSI/HI 9.6.1–2017, ANSI/HI 9.6.6–2016, ANSI/HI 9.8–2018, ANSI/HI 14.1–14.2–2019, and the HI Engineering Data Book—Second Edition can be obtained from the Hydraulics Institute, 300 Interpace Parkway, Bldg. a 3rd floor, Parsippany, NJ 07054, (973) 267–9700, or online at: *pumps.org.*

(7) ANSI/ASME MFC–5M–1985. This standard is referenced in HI 40.6–2021 and provides information on ultrasonic flowmeters that operate on the measurement of acoustic signal transit times.

(8) ASME MFC–3M–2004. This standard is referenced in HI 40.6–2021 and specifies the geometry and method of use for pressure differential devices (*i.e.,* orifice, nozzle, and venturi meters) for measuring full-pipe liquid flow in a closed conduit.

(9) ASME MFC–8M–2001. This standard is referenced in HI 40.6–2021 and describes a method for connecting pressure signal transmissions between primary and secondary devices.

(10) ASME MFC–12M–2006. This standard is referenced in HI 40.6–2021 and provides information on the use of multiport averaging Pitot head-type devices used to measure liquids and gases.

(11) ASME MFC–16–2014. This standard is referenced in HI 40.6–2021 and provides information on industrial electromagnetic flowmeters and their application in the measurement of liquid flow.

(12) ASME MFC–22–2007. This standard is referenced in HI 40.6–2021 and describes the criteria for application of turbine flowmeters with rotating blades for measuring full-pipe liquid flow through closed conduit.

Copies of ANSI/ASME MFC–5M–1985, ASME MFC–3M–2004, and ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, and ASME MFC–22–2007, can be obtained from the American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016–5990, (800) 843–2763, or online at: *asme.org.*

(13) AWWA E103–2015. This standard is referenced in HI 40.6–2021 and provides minimum requirements for horizontal centrifugal pumps and for vertical line-shaft pumps for installation in wells, water treatment plants, water transmission systems, and water distribution systems.

Copies of AWWA E103–2015 can be obtained from the American Water Works Association, 6666 W Quincy Avenue, Denver, CO 80235, (303) 794–7711, or online at: *awwa.org.*

(14) CSA C390–10. This standard is referenced in HI 40.6–2021 and establishes test methods, marking requirements, and energy efficiency levels for three-phase induction motors.

Copies of CSA C390–10 can be obtained from the Canadian Standards Association, 178 Rexdale Blvd., Toronto, ON, Canada M9W 1R3, (800) 463–6727, or online at *csagroup.org.*

(15) IEEE 112–2017. This standard is referenced in HI 40.6–2021 and contains instructions for conducting and reporting the more generally applicable and acceptable tests of polyphase induction motors and generators.

(16) IEEE 114–2010. This standard is referenced in HI 40.6–2021 and contains instructions to determine the performance characteristics of single-phase induction motors.

Copies of IEEE 112–2017 and IEEE 114–2010 can be obtained from the Institute of Electrical and Electronics Engineers, 445 Hoes Lane, Piscataway, NJ 08854–4141, (732) 981–0060, or online at *standards.ieee.org.*

(17) ISO 1438:2017. This standard is referenced in HI 40.6–2021 and specifies methods for the measurement of water flow in open channels using rectangular and triangular-notch (V-notch) thin-plate weirs.

(18) ISO 2186:2007. This standard is referenced in HI 40.6–2021 and specifies provisions for the design, lay-out and installation for transmitting pressure signals from a primary to a secondary device without signal distortion.

(19) ISO 2715:2017. This standard is referenced in HI 40.6–2021, describes and discusses the characteristics of turbine flowmeters, and is applicable to metering any appropriate liquid.

(20) ISO 3354:2008. This standard is referenced in HI 40.6–2021 and specifies a method for the determination of the volume flow rate in a closed conduit.

(21) ISO 3966:2020. This standard is referenced in HI 40.6–2021 and specifies a method for determining volume flowrate in a closed conduit using propeller-type current-meters.

(22) ISO 5167–1:2003. This standard is referenced in HI 40.6–2021 and establishes methods of measuring and calculating flowrate in a conduit using pressure differential devices (*i.e.,* orifice plates, nozzles, and Venturi tubes).

(23) ISO 5198:1987. This standard is referenced in HI 40.6–2021 and specifies precision class tests (*i.e.,* high accuracy) for testing centrifugal, mixed flow, and axial pumps.

(24) ISO 6416:2017. HI 40.6–2021 references ISO/TR 12765 which is identical to this standard, which describes the establishment and operation of an ultrasonic gauging station for the continuous measurement of discharge in a river, an open channel or a closed conduit.

(25) ISO 20456:2017. HI 40.6–2021 references ISO 9104:1991 which has since been revised to ISO 20456:2017, which cancels and replaces ISO 9104:1991. ISO 20456:2017 describes how industrial electromagnetic flowmeters are used for the measurement of flowrate of a conductive liquid in a closed conduit running full.

Copies of ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017 can be obtained from the International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, +41 22 749 01 11, or online at: *iso.org.*

The following standards are already approved for the sections where they appear: CSA C747–2009, FM Class Number 1319, HI 40.6–2014, HI 41.5–2022, IEEE 113–1985, IEEE 114–2010, NFPA 20–2016, NSF/ANSI 50–2015, UL 448, and UL 1081.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on February 28, 2023, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 15, 2023.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION COMPLIANCE AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Amend § 429.59 by:
■ a. Revising paragraph (a) introductory text;
■ b. Redesignating paragraphs (a)(2)(iv) through (vii) as paragraphs (a)(2)(v) through (viii); and
■ c. Adding new paragraph (a)(3).

The revision and additions read as follows:

§ 429.59 Pumps.

* * * * *

(a) *Determination of represented value.* Manufacturers must determine the represented value, which includes the certified rating, for each basic model of general purpose pump either by testing (which includes the calculation-based methods in the test procedure), in conjunction with the following sampling provisions, or by application of an AEDM that meets the requirements of § 429.70 and the provisions of this section. Manufacturers must determine the represented value, which includes the certified rating, for each basic model of dedicated-purpose pool pump by testing, in conjunction with the following sampling provisions. Manufacturers must update represented values to account for any change in the applicable motor standards in subpart B of part 431 of this chapter and certify amended values as of the next annual certification.

* * * * *

(2) * * *

(iv) *General pumps.* The representative values for pump total head in feet at BEP and nominal speed, volume per unit time in gallons per minute at BEP and nominal speed, and calculated driver power input at each load point must be the arithmetic mean of the value determined for each tested unit of general pump.

* * * * *

(3) *Alternative efficiency determination methods.* In lieu of testing, a represented value of efficiency or consumption for a basic model of pump must be determined through the application of an AEDM pursuant to the requirements of § 429.70 and the provisions of this section, where:

(i) Any represented value of energy consumption or other measure of energy use of a basic model for which consumers would favor lower values shall be greater than or equal to the output of the AEDM and less than or equal to the Federal standard for that basic model; and

(ii) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the output of the AEDM and greater than or equal to the Federal standard for that basic model.

* * * * *

■ 3. Amend § 429.70 by adding paragraph (m) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency and energy use.

* * * * *

(m) *Alternative efficiency determination method (AEDM) for general pumps*—(1) *Criteria an AEDM must satisfy.* A manufacturer may not apply an AEDM to a basic model to determine its efficiency pursuant to this section, unless:

(i) The AEDM is derived from a mathematical model that estimates the energy efficiency or energy consumption characteristics of the basic model as measured by the applicable DOE test procedure;

(ii) The AEDM is based on engineering or statistical analysis, computer simulation or modeling, or other analytic evaluation of performance data; and

(iii) The manufacturer has validated the AEDM, in accordance with paragraph (m)(2) of this section.

(2) *Validation of an AEDM.* Before using an AEDM, the manufacturer must validate the AEDM's accuracy and reliability as follows:

(i) *AEDM overview.* The manufacturer must select at least the minimum number of basic models for each validation class specified in paragraph (m)(2)(iv) of this section to which the particular AEDM applies. Using the AEDM, calculate the PEI for each of the selected basic models. Test each basic model and determine the represented value(s) in accordance with § 429.63(a). Compare the results from the testing and the AEDM output according to paragraph (m)(2)(ii) of this section. The manufacturer is responsible for ensuring the accuracy and repeatability of the AEDM.

(ii) *AEDM basic model tolerances.* (A) The predicted representative PEI for each basic model calculated by applying the AEDM may not be more than five percent less than the represented PEI determined from the corresponding test of the model.

(B) The predicted constant or variable load pump energy index for each basic model calculated by applying the AEDM must meet or exceed the applicable federal energy conservation standard.

(iii) *Additional test unit requirements.* (A) Each AEDM must be supported by test data obtained from physical tests of current models; and

(B) Test results used to validate the AEDM must meet or exceed current, applicable Federal standards as specified in part 431 of this chapter; and

(C) Each test must have been performed in accordance with the applicable DOE test procedure with which compliance is required at the time the basic models used for validation are distributed in commerce.

(iv) *Pump validation classes.*

Validation class	Minimum number of distinct basic models that must be tested
(A) Constant Load End-suction Closed-Coupled Pumps and Constant Load End-suction Frame-Mounted Pumps	2 Basic Models.
(B) Variable Load End-suction Closed-Coupled Pumps and Variable Load End-suction Frame-Mounted Pumps	2 Basic Models.
(C) Constant Load Inline Pumps and Constant Load Small Vertical Inline Pumps	2 Basic Models.
(D) Variable Load Inline Pumps and Variable Load Small Vertical Inline Pumps	2 Basic Models.
(E) Constant Load Radially-Split Multi-Stage Vertical Pumps and Constant Load Radially-Split Multi-Stage Horizonal Pumps.	2 Basic Models.
(F) Variable Load Radially-Split Multi-Stage Vertical Pumps and Variable Load Radially-Split Multi-Stage Horizontal Pumps.	2 Basic Models.

Validation class	Minimum number of distinct basic models that must be tested
(G) Constant Load Submersible Turbine Pumps and Constant Load Vertical Turbine Pumps	2 Basic Models.
(H) Variable Load Submersible Turbine Pumps and Variable Load Vertical Turbine Pumps	2 Basic Models.

(3) *AEDM records retention requirements.* If a manufacturer has used an AEDM to determine representative values pursuant to this section, the manufacturer must have available upon request for inspection by the Department records showing:

(i) The AEDM, including the mathematical model, the engineering or statistical analysis, and/or computer simulation or modeling that is the basis of the AEDM;

(ii) Regarding the units tested that were used to validate the AEDM pursuant to paragraph (m)(2) of this section, equipment information, complete test data, AEDM calculations, and the statistical comparisons; and

(iii) For each basic model to which the AEDM was applied, equipment information and AEDM calculations.

(4) *Additional AEDM requirements.* If requested by the Department, the manufacturer must:

(i) Conduct simulations before representatives of the Department to predict the performance of particular basic models of the equipment to which the AEDM was applied;

(ii) Provide analyses of previous simulations conducted by the manufacturer; and/or

(iii) Conduct certification testing of basic models selected by the Department.

(5) *AEDM verification testing.* DOE may use the test data for a given individual model generated pursuant to § 429.104 to verify the certified rating determined by an AEDM as long as the following process is followed:

(i) *Selection of units.* DOE will obtain units for test from retail, where available. If units cannot be obtained from retail, DOE will request that a unit be provided by the manufacturer.

(ii) *Lab requirements.* DOE will conduct testing at an independent, third-party testing facility of its choosing. In cases where no third-party laboratory is capable of testing the equipment, it may be tested at a manufacturer's facility upon DOE's request.

(iii) *Manufacturer participation.* Testing will be performed without manufacturer representatives on-site.

(iv) *Testing.* All verification testing will be conducted in accordance with the applicable DOE test procedure, as well as each of the following to the extent that they apply:

(A) Any active test procedure waivers that have been granted for the basic model;

(B) Any test procedure guidance that has been issued by DOE;

(C) If during test set-up or testing, the lab indicates to DOE that it needs additional information regarding a given basic model in order to test in accordance with the applicable DOE test procedure, DOE may organize a meeting between DOE, the manufacturer and the lab to provide such information.

(D) At no time during the process may the lab communicate directly with the manufacturer without DOE present.

(v) *Failure to meet certified rating.* If a model's test results are worse than its certified rating by an amount exceeding the tolerance prescribed in paragraph (f)(5)(vi) of this section, DOE will notify the manufacturer. DOE will provide the manufacturer with all documentation related to the test set up, test conditions, and test results for the unit. Within the timeframe allotted by DOE, the manufacturer may then present all claims regarding testing validity.

(vi) *Tolerances.* For consumption metrics, the result from a DOE verification test must be less than or equal to the certified rating × (1 + the applicable tolerance).

TABLE 7 TO PARAGRAPH (m)(5)(vi)

Equipment	Metric	Applicable tolerance (%)
General Pumps	Constant or Variable Load Pump Energy Index	5

(vii) *Invalid rating.* If, following discussions with the manufacturer and a retest where applicable, DOE determines that the testing was conducted appropriately in accordance with the DOE test procedure, the rating for the model will be considered invalid. The manufacturer must conduct additional testing and re-rate and re-certify the basic models that were rated using the AEDM based on all test data collected, including DOE's test data.

(viii) *AEDM use.* This paragraph (m)(5)(viii) specifies when a manufacturer's use of an AEDM may be restricted due to prior invalid represented values.

(A) If DOE has determined that a manufacturer made invalid ratings on two or more models rated using the same AEDM within a 24-month period, the manufacturer must take the action listed in the table corresponding to the number of invalid certified ratings. The twenty-four month period begins with a DOE determination that a rating is invalid through the process outlined previously. Additional invalid ratings apply for the purposes of determining the appropriate consequences if the subsequent determination(s) is based on selection of a unit for testing within the twenty-four-month period (*i.e.,* subsequent determinations need not be made within 24 months).

TABLE 8 TO PARAGRAPH (m)(5)(viii)(A)

Number of invalid certified ratings from the same AEDM [1] within a rolling 24-month period [2]	Required manufacturer actions
2	Submit different test data and reports from testing to validate that AEDM within the validation classes to which it is applied.[3] Adjust the ratings as appropriate.
4	Conduct double the minimum number of validation tests for the validation classes to which the AEDM is applied. Note, the tests required under this paragraph (m)(5)(viii) must be performed on different models than the original tests required under paragraph (m)(2) of this section.
6	Conduct the minimum number of validation tests for the validation classes to which the AEDM is applied at a third-party test facility; And Conduct additional testing, which is equal to ½ the minimum number of validation tests for the validation classes to which the AEDM is applied, at either the manufacturer's facility or a third-party test facility, at the manufacturer's discretion. Note, the tests required under this paragraph (m)(5)(viii) must be performed on different models than the original tests performed under paragraph (m)(2) of this section.
> = 8	Manufacturer has lost privilege to use AEDM. All ratings for models within the validation classes to which the AEDM applied should be rated via testing. Distribution cannot continue until certification(s) are corrected to reflect actual test data.

[1] The "same AEDM" means a computer simulation or mathematical model that is identified by the manufacturer at the time of certification as having been used to rate a model or group of models.

[2] The twenty-four month period begins with a DOE determination that a rating is invalid through the process outlined above. Additional invalid ratings apply for the purposes of determining the appropriate consequences if the subsequent determination(s) is based on testing of a unit that was selected for testing within the twenty-four month period (i.e., subsequent determinations need not be made within 24 months).

[3] A manufacturer may discuss with DOE's Office of Enforcement whether existing test data on different basic models within the validation classes to which that specific AEDM was applied may be used to meet this requirement.

(B) If, as a result of eight or more invalid ratings, a manufacturer has lost the privilege of using an AEDM for rating, the manufacturer may regain the ability to use an AEDM by:

(*1*) Investigating and identifying cause(s) for failures;

(*2*) Taking corrective action to address cause(s);

(*3*) Performing six new tests per validation class, a minimum of two of which must be performed by an independent, third-party laboratory to validate the AEDM; and

(*4*) Obtaining DOE authorization to resume use of the AEDM.

* * * * *

■ 3. Section 429.134 is amended by revising paragraph (i)(1)(ii):

§ 429.134 Product-specific enforcement provisions.

* * * * *

(i) * * *

(1) * * *

(ii) DOE will test each pump unit according to the test method specified by the manufacturer in the certification report submitted pursuant to § 429.59(b); if the model of pump unit was rated using an AEDM, DOE may use either a testing approach or calculation approach.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 4. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 5. Amend § 431.462 by:

■ a. Revising the introductory text;

■ b. Revising the definition of "Basic model";

■ c. Adding in alphabetical order a definition for "Bowl";

■ d. Revising the definitions of "Bowl diameter", "Close-coupled pump", "End suction close-coupled (ESCC) pump", "End suction frame mounted/own bearings (ESFM) pump", "End suction pump", "In-line (IL) pump", and "Mechanically-coupled pump";

■ e. Adding in alphabetical order definitions for "Radially-split, multi-stage, horizontal, diffuser casing (RSH) pump", "Radially-split, multi-stage, horizontal, end-suction diffuser casing (RSHES) pump", and "Radially-split, multi-stage, horizontal, in-line diffuser casing (RSHIL) pump";

■ f. Revising the definition of "Radially-split, multi-stage, vertical, in-line diffuser casing (RSV) pump";

■ g. Adding in alphabetical order definitions for "Small vertical in-line (SVIL) pump" and "Small vertical twin-head pump";

■ h. Revising the definition of "Submersible turbine (ST) pump"; and

■ i. Adding in alphabetical order a definition for "Vertical turbine pump".

The revisions and additions read as follows:

§ 431.462 Definitions.

The following definitions are applicable to this subpart, including appendices A, B, and C. In cases where definitions reference design intent, DOE will consider marketing materials, labels and certifications, and equipment design to determine design intent.

* * * * *

Basic model means all units of a given class of pump manufactured by one manufacturer, having the same primary energy source, and having essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and, in addition, for pumps that are subject to the test procedures specified in § 431.464(a), the following provisions also apply:

(1) All variations in numbers of stages of bare RSV and ST pumps must be considered a single basic model;

(2) Pump models for which the bare pump differs in impeller diameter and/or impeller trim, may be considered a single basic model; and

(3) Pump models for which the bare pump differs in number of stages and/or impeller diameter and which are sold with motors (or motors and controls) of varying horsepower may only be considered a single basic model if:

(i) For ESCC, ESFM, IL, and RSV pumps, each motor offered in the basic model has a nominal full load motor efficiency rated at the Federal minimum (see the applicable table at § 431.25) or the same number of bands above the Federal minimum for each respective motor horsepower (*see* table 3 of appendix A to this subpart); or for pumps sold with inverter-only synchronous electric motors, any number of bands above the Federal

minimum for each respective motor horsepower provided that the rating is based on the lowest number of bands; or

(ii) For ST pumps, each motor offered in the basic model has a full load motor efficiency at the default nominal full load submersible motor efficiency shown in table 2 of appendix A to subpart Y of this part or the same number of bands above the default nominal full load submersible motor efficiency for each respective motor horsepower (*see* table 3 of appendix A to this subpart) or for inverter-only synchronous electric motors, any number of bands above the default nominal full load submersible motor efficiency provided the rating is based on the lowest number of bands.

* * * * *

Bowl means a casing in which the impeller rotates, and that directs flow axially to the next stage or the discharge column.

Bowl diameter means the maximum dimension of an imaginary straight line passing through and in the plane of the circular shape of the bowl of the bare pump that is perpendicular to the pump shaft and that intersects the outermost circular shape of the bowl of the bare pump at both of its ends.

* * * * *

Close-coupled pump means a pump in which the driver's bearings are designed to absorb the pump's axial load.

* * * * *

End-suction close-coupled (ESCC) pump means a close-coupled, dry rotor, end-suction pump that has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and that is not a dedicated-purpose pool pump.

End-suction frame mounted/own bearings (ESFM) pump means a mechanically-coupled, dry rotor, end-suction pump that has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and that is not a dedicated-purpose pool pump.

End-suction pump means a single-stage, rotodynamic pump in which the liquid enters the bare pump in a direction parallel to the impeller shaft and on the side opposite the bare pump's driver-end. The liquid is discharged in a plane perpendicular to the shaft.

* * * * *

In-line (IL) pump means a pump that is either a twin head pump or a single-stage, single-axis flow, dry rotor, rotodynamic pump that has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter, in which liquid is discharged in a plane perpendicular to the shaft. Such pumps do not include circulator pumps.

* * * * *

Mechanically-coupled pump means a pump in which bearings external to the driver are designed to absorb the pump's axial load.

* * * * *

Radially-split, multi-stage, horizontal, diffuser casing (RSH) pump means a horizontal, multi-stage, dry rotor, rotodynamic pump:

(1) That has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing;

(2) In which liquid is discharged in a plane perpendicular to the impeller shaft;

(3) For which each stage (or bowl) consists of an impeller and diffuser; and

(4) For which no external part of such a pump is designed to be submerged in the pumped liquid.

Radially-split, multi-stage, horizontal, end-suction diffuser casing (RSHES) pump means a RSH pump in which the liquid enters the bare pump in a direction parallel to the impeller shaft and on the side opposite the bare pump's driver-end.

Radially-split, multi-stage, horizontal, in-line diffuser casing (RSHIL) pump means a single-axis flow RSH pump in which the liquid enters the pump in a plane perpendicular to the impeller shaft.

Radially-split, multi-stage, vertical, diffuser casing (RSV) pump means a vertically suspended, multi-stage, single-axis flow, dry rotor, rotodynamic pump:

(1) That has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing;

(2) In which liquid is discharged in a plane perpendicular to the impeller shaft;

(3) For which each stage (or bowl) consists of an impeller and diffuser; and

(4) For which no external part of such a pump is designed to be submerged in the pumped liquid.

* * * * *

Small vertical in-line (SVIL) pump means a small vertical twin-head pump or a single stage, single-axis flow, dry rotor, rotodynamic pump that:

(1) Has a shaft input power less than 1 horsepower at its BEP at full impeller diameter; and

(2) In which liquid is discharged in a plane perpendicular to the shaft; and

(3) Is not a circulator pump.

Small vertical twin-head pump means a dry rotor, single-axis flow, rotodynamic pump that contains two equivalent impeller assemblies, each of which:

(1) Contains an impeller, impeller shaft (or motor shaft in the case of close-coupled pumps), shaft seal or packing, driver (if present), and mechanical equipment (if present); and

(2) Has a shaft input power that is less than or equal to 1 hp at BEP and full impeller diameter; and

(3) Has the same primary energy source (if sold with a driver) and the same electrical, physical, and functional characteristics that affect energy consumption or energy efficiency; and

(4) Is mounted in its own volute; and

(5) Discharges liquid through its volute and the common discharge in a plane perpendicular to the impeller shaft.

* * * * *

Submersible turbine (ST) pump means a single-stage or multi-stage, dry rotor, rotodynamic pump that is designed to be operated with the motor and stage(s) fully submerged in the pumped liquid; that has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing; and in which each stage of this pump consists of an impeller and diffuser, and liquid enters and exits each stage of the bare pump in a direction parallel to the impeller shaft.

* * * * *

Vertical turbine (VT) pump means a vertically suspended, single-stage or multi-stage, dry rotor, single inlet, rotodynamic pump:

(1) That has a shaft input power greater than or equal to 1 hp and less than or equal to 200 hp at BEP and full impeller diameter and at the number of stages required for testing;

(2) For which the pump driver is not designed to be submerged in the pumped liquid;

(3) That has a single pressure containing boundary (*i.e.,* is single casing), which may consist of, but is not limited, to bowls, columns, and discharge heads; and

(4) That discharges liquid through the same casing in which the impeller shaft is contained.

* * * * *

■ 6. Revise § 431.463 to read as follows:

§ 431.463 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the

approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) is available for inspection at DOE, and at the National Archives and Records Administration (NARA). Contact DOE at: the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, https://www.energy.gov/eere/buildings/building-technologies-office.* For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov.* The material may be obtained from the following sources:

(b) *ASME.* American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016–5990; (800) 843–2763; *www.asme.org.*

(1) ASME MFC–3M–2004 (Reaffirmed 2017) (''ASME MFC–3M–2004''), *Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi,* Issued January 1, 2004; IBR approved for appendix A to this subpart.

(2) ANSI/ASME MFC–5M–1985 (Reaffirmed 2006) (''ASME MFC–5M–1985''), *Measurement of Liquid Flow in Closed Conduits Using Transit-Time Ultrasonic Flowmeters,* Issued July 15, 1985; IBR approved for appendix A to this subpart.

(3) ASME MFC–8M–2001 (Reaffirmed 2011) (''ASME MFC–8M–2001''), *Fluid Flow in Closed Conduits: Connections for Pressure Signal Transmissions Between Primary and Secondary Devices,* Issued September 1, 2001; IBR approved for appendix A to this subpart.

(4) ASME MFC–12M–2006 (Reaffirmed 2014) (''ASME MFC–12M–2006''), *Measurement of Fluid Flow in Closed Conduits Using Multiport Averaging Pitot Primary Elements,* Issued October 9, 2006; IBR approved for appendix A to this subpart.

(5) ASME MFC–16–2014, *Measurement of Liquid Flow in Closed Conduits with Electromagnetic Flowmeters,* Issued March 14, 2014; IBR approved for appendix A to this subpart.

(6) ASME MFC–22–2007 (Reaffirmed 2014) (''ASME MFC–22–2007''), *Measurement of Liquid by Turbine Flowmeters,* Issued April 14, 2008; IBR approved for appendix A to this subpart.

(c) *AWWA.* American Water Works Association, Headquarters, 6666 W Quincy Ave, Denver, CO 80235; (303) 794–7711; *www.awwa.org.*

(1) ANSI/AWWA E103–2015 (''AWWA E103–2015''), *Horizontal and Vertical Line-Shaft Pumps,* approved 7, 2015; IBR approved for appendix A to this subpart.

(2) [Reserved]

(d) *CSA.* Canadian Standards Association, 5060 Spectrum Way, Suite 100, Mississauga, Ontario, L4W 5N6, Canada; (800) 463–6727; *www.csagroup.org.*

(1) CSA C390–10 Test methods, marking requirements, and energy efficiency levels for three-phase induction motors, Updated March 2010; IBR approved for appendix A to this subpart.

(2) CSA C747–2009 (Reaffirmed 2014) (''CSA C747–2009 (RA 2014)''), *Energy efficiency test methods for small motors,* CSA reaffirmed 2014; IBR approved for appendices B and C to this subpart, as follows:

(i) Section 1, ''Scope'';

(ii) Section 3, ''Definitions'';

(iii) Section 5, ''General Test Requirements''; and

(iv) Section 6, ''Test Method.''

(e) *FM.* FM Global, 1151 Boston-Providence Turnpike, P.O. Box 9102, Norwood, MA 02062; (781) 762–4300; *www.fmglobal.com.*

(1) FM Class Number 1319, *Approval Standard for Centrifugal Fire Pumps (Horizontal, End Suction Type),* January 2015; IBR approved for § 431.462.

(2) [Reserved]

(f) *HI.* Hydraulic Institute, 300 Interpace Parkway, 3rd Floor, Parsippany, NJ 07054–4406; 973–267–9700; *www.Pumps.org.*

(1) ANSI/HI 9.6.1–2017 (''HI 9.6.1–2017'') ''*Rotodynamic Pumps—Guideline for NPSH Margin,* ANSI-approved January 6, 2017; IBR approved for appendix A to this subpart.

(2) ANSI/HI 9.6.6–2016 (''HI 9.6.6–2016'') ''*Rotodynamic Pumps for Pump Piping,* ANSI-approved March 23, 2016; IBR approved for appendix A to this subpart.

(3) ANSI/HI 9.8–2018 (''HI 9.8–2018'') ''*Rotodynamic Pumps for Pump Intake Design,* ANSI-approved January 8, 2018; IBR approved for appendix A to this subpart.

(4) ANSI/HI 14.1–14.2–2019 (''HI 14.1–14.2–2019'') ''*Rotodynamic Pumps for Nomenclature and Definitions,* ANSI-approved April 9, 2019; IBR approved for appendix A to this subpart.

(5) HI 40.6–2014 (''HI 40.6–2014–B''), *Methods for Rotodynamic Pump Efficiency Testing,* copyright 2014, IBR approved for appendices B and C to this subpart, excluding the following:

(i) Section 40.6.4.1 ''Vertically suspended pumps'';

(ii) Section 40.6.4.2 ''Submersible pumps'';

(iii) Section 40.6.5.3 ''Test report'';

(iv) Section 40.6.5.5 ''Test conditions'';

(v) Section 40.6.5.5.2 ''Speed of rotation during test'';

(vi) Section 40.6.6.1 ''Translation of test results to rated speed of rotation'';

(vii) Appendix A ''Test arrangements (normative)'': A.7 ''Testing at temperatures exceeding 30 °C (86 °F)''; and

(viii) Appendix B, ''Reporting of test results (normative)'').

(6) HI 40.6–2021, *Hydraulic Institute Standard for Methods for Rotodynamic Pump Efficiency Testing,* approved February 17, 2021; IBR approved for appendices A and D to this subpart.

(7) HI 41.5–2022, *Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program,* approved June 16, 2022; IBR approved for appendix D to this subpart.

(8) HI Engineering Data Book, Second Edition copyright 1990; IBR approved for appendix A to this subpart.

(g) *IEEE.* Institute of Electrical and Electronics Engineers, Inc., 45 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331; (732) 981–0060; *www.ieee.org.*

(1) IEEE 112–2017, I*EEE Standard Test Procedure for Polyphase Induction Motors and Generators,* published February 14, 2018; IBR approved for appendix A to this subpart.

(2) IEEE 113–1985, *IEEE Guide: Test Procedures for Direct-Current Machines,*'' copyright 1985, IBR approved for appendices B and C to this subpart, as follows:

(i) Section 3, Electrical Measurements and Power Sources for all Test Procedures:

(A) Section 3.1, ''Instrument Selection Factors'';

(B) Section 3.4 ''Power Measurement''; and

(C) Section 3.5 ''Power Sources'';

(ii) Section 4, Preliminary Tests:

(A) Section 4.1, Reference Conditions, Section 4.1.2, ''Ambient Air''; and

(B) Section 4.1, Reference Conditions, Section 4.1.4 ''Direction of Rotation''; and

(iii) Section 5, Performance Determination:

(A) Section 5.4, Efficiency, Section 5.4.1, ''Reference Conditions''; and

(B) Section 5.4.3, Direct Measurements of Input and Output, Section 5.4.3.2 ''Dynomometer or Torquemeter Method.''

(3) IEEE 114–2010 (''IEEE 114–2010–A''), *IEEE Standard Test Procedure for Single-Phase Induction Motors,* published December 23, 2010; IBR approved for appendix A to this subpart.

(3) IEEE 114–2010 (''IEEE 114–2010''), ''IEEE Standard Test Procedure for Single-Phase Induction Motors,'' approved September 30, 2010, IBR approved for appendices B and C to this subpart, as follows:

(i) Section 3, ''General tests'', Section 3.2, ''Tests with load'';

(ii) Section 4 ''Testing facilities''; and

(iii) Section 5, ''Measurements'':

(A) Section 5.2 ''Mechanical measurements'';

(B) Section 5.3 ''Temperature measurements''; and

(iv) Section 6 ''Tests.''

(h) *ISO.* International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, +41 22 749 01 11. *www.iso.org.*

(1) ISO 1438:2017(E) (''ISO 1438:2017''), *Hydrometry—Open channel flow measurement using thin-plate weirs,* Third edition, April 2017; IBR approved for appendix A to this subpart.

(2) ISO 2186:2007(E) (''ISO 2186:2007''), *Fluid flow in closed conduits—Connections for pressure signal transmissions between primary and secondary elements,* Second edition, March 1, 2007; IBR approved for appendix A to this subpart.

(3) ISO 2715:2017(E) (''ISO 2715:2017''), *Liquid hydrocarbons—Volumetric measurement by turbine flowmeter,* Second edition, November 1, 2017; IBR approved for appendix A to this subpart.

(4) ISO 3354:2008(E) (''ISO 3354:2008''), *Measurement of clean water flow in closed conduits—Velocity-area method using current-meters in full conduits and under regular flow conditions,* Third edition, July 15, 2008; IBR approved for appendix A to this subpart.

(5) ISO 3966:2020(E) (''ISO 3966:2020''), *Measurement of fluid flow in closed conduits—Velocity area method using Pitot static tubes,* Third edition, July 27, 2020; IBR approved for appendix A to this subpart.

(6) ISO 5167–1:2003(E) (''ISO 5167–1:2003''), *Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full—Part 1: General principles and requirements,* Second edition, March 1, 2003; IBR approved for appendix A to this subpart.

(7) ISO 5198:1987(E) (''ISO 5198:1987''), *Centrifugal, mixed flow and axial pumps—Code for hydraulic performance tests—Precision class,* First edition, July 1, 1987; IBR approved for appendix A to this subpart.

(8) ISO 6416:2017(E) (''ISO 6416:2017''), *Hydrometry—Measurement of discharge by the ultrasonic transit time (time of flight) method,* Fourth edition, October 2017; IBR approved for appendix A to this subpart.

(9) ISO 20456:2017(E) (''ISO 20456:2017''), *Measurement of fluid flow in closed conduits—Guidance for the use of electromagnetic flowmeters for conductive liquids,* First edition, September 2017; IBR approved for appendix A to this subpart.

(i) *NFPA.* National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169–7471; (617) 770–3000; *www.nfpa.org.*

(1) NFPA 20 (''NFPA 20–2016''), *Standard for the Installation of Stationary Pumps for Fire Protection,* 2016 Edition, approved June 15, 2015, IBR approved for § 431.462.

(2) [Reserved]

(j) *NSF.* NSF International, 789 N. Dixboro Road, Ann Arbor, MI 48105; (743) 769–8010; *www.nsf.org.*

(1) NSF/ANSI 50–2015, *Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities,* Annex C, *normative Test methods for the evaluation of centrifugal pumps,* Section C.3, *Self-priming capability,* ANSI-approved January 26, 2015; IBR approved for § 431.462 and appendices B and C to this subpart.

(2) [Reserved]

(k) *UL.* UL, 333 Pfingsten Road, Northbrook, IL 60062; (847) 272–8800; *www.ul.com.*

(1) UL 448 (''ANSI/UL 448–2013''), *Standard for Safety Centrifugal Stationary Pumps for Fire-Protection Service,* 10th Edition, June 8, 2007, including revisions through July 12, 2013; IBR approved for § 431.462.

(2) UL 1081 (''ANSI/UL 1081–2016''), *Standard for Swimming Pool Pumps, Filters, and Chlorinators,* 7th Edition, ANSI-approved October 21, 2016; IBR approved for § 431.462.

■ 7. Section 431.464 is amended by revising paragraphs (a)(1)(i) through (iii) to read as follows:

§ 431.464 Test procedure for the measurement of energy efficiency, energy consumption, and other performance factors of pumps.

(a) * * *

(1) * * *

(i) The following categories of clean water pumps that have the characteristics listed in paragraph (a)(1)(iii) of this section.

(A) End suction close-coupled (ESCC);

(B) End suction frame mounted/own bearings (ESFM);

(C) In-line (IL);

(D) Radially split, multi-stage, vertical, in-line casing diffuser (RSV); and

(E) Submersible turbine (ST) pumps.

(ii) The additional following categories of clean water pumps that have the characteristics listed in paragraph (a)(1)(iii) of this section:

(A) Radially-split, multi-stage, horizontal, end-suction diffuser casing (RSHES);

(B) Radially-split, multi-stage, horizontal, in-line diffuser casing (RSHIL);

(C) Small vertical in-line (SVIL); and

(D) Vertical Turbine (VT).

(iii) Pump characteristics:

(A) Flow rate of 25 gpm or greater at BEP and full impeller diameter;

(B) Maximum head of 459 feet at BEP and full impeller diameter and the number of stages required for testing (*see* section 1.2.2 of appendix A of this subpart);

(C) Design temperature range wholly or partially in the range of 15 to 250 °F;

(D) Designed to operate with either:

(*1*) A 2- or 4- or 6-pole induction motor, or

(*2*) A non-induction motor with a speed of rotation operating range that includes speeds of rotation between 2,880 and 4,320 revolutions per minute (rpm) and/or 1,440 and 2,160 rpm and/or 960 and 1,439 revolutions per minute, and in each case, the driver and impeller must rotate at the same speed;

(E) For ST, and VT pumps, a 6-inch or smaller bowl diameter; and

(F) For ESCC, and ESFM pumps, a specific speed less than or equal to 5,000 when calculated using U.S. customary units.

* * * * *

■ 8. Appendix A to subpart Y of part 431 is amended by:

■ a. Revising the note to the beginning of the appendix;

■ b. Revising section I;

■ c. In section II,

■ i. Revising paragraphs A.1, A.2, B.1.1.1.1, B.1.2.1.2, B.1.2.1.2.1., and B.1.2.1.2.2; and

■ ii. Adding paragraph B.1.2.1.2.3;

■ d. In section III, revising paragraphs A through D, E.1.2.1.2, E.1.2.1.2.1., and E.1.2.1.2.2.;

■ e. In section IV, revising paragraphs A through D;

■ f. In section V, revising paragraphs A through D, E.1.1, E.1.2.1.1, E.1.2.1.1.1. and E.1.2.1.1.2.;

■ g. In section VI, revising paragraphs A through D;

■ h. In section VII,
■ i. Revising paragraphs A through D, the definition of L_{full} in paragraph E.1.2, paragraphs E.1.2.1, E.1.2.1.1, E.1.2.1.1.1, and E.1.2.1.1.2,
■ ii. Adding paragraph E.1.2.1.1.3; and
■ iii. Revising paragraph E.1.2.2;
■ i. Revising Tables 2 and 4; and
■ j. Adding Table 5.

The revisions and additions read as follows:

Appendix A to Subpart Y of Part 431—Uniform Test Method for the Measurement of Energy Consumption of Pumps

Note: Prior to September 20, 2023, representations with respect to the energy use or efficiency (including compliance certifications) of pumps specified in § 431.464(a)(1)(i), excluding pumps listed in § 431.464(a)(1)(iv), must be based on testing conducted in accordance with the applicable provisions of this appendix as they appeared in the January 1, 2022 edition of the Code of Federal Regulations of subpart Y of part 431 in 10 CFR parts 200 through 499.

On or after September 20, 2023, representations with respect to the energy use or efficiency (including compliance certifications) of pumps specified in § 431.464(a)(1)(i), excluding pumps listed in § 431.464(a)(1)(iv), must be based on testing conducted in accordance with the applicable provisions of this appendix.

Any representations with respect to the energy use or efficiency of pumps specified in § 431.464(a)(1)(ii), excluding pumps listed in § 431.464(a)(1)(iv), made on or after September 20, 2023 must be made in accordance with the results of testing pursuant to this appendix. Manufacturers must use the results of testing under this appendix to determine compliance with any energy conservation standards established for pumps specified in § 431.464(a)(1)(ii), excluding pumps listed in § 431.464(a)(1)(iv), that are published after January 1, 2022.

I. Test Procedure for Pumps

0. Incorporation by Reference.

DOE incorporated by reference in § 431.463 the entire standard for HI 40.6–2021, HI 9.6.1–2017, HI 9.6.6–2016, HI 9.8–2018, HI 14.1–14.2–2019, the HI Engineering Data Book, ASME MFC–5M–1985, ASME MFC–3M–2004, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, ASME MFC–22–2007, AWWA E103–2015, CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017; however, certain enumerated provisions of HI 40.6–2021, as follows are inapplicable. To the extent that there is a conflict between the terms or provisions of a referenced industry standard and the CFR, the CFR provisions control.

0.1 HI 40.6–2021

(a) Section 40.6.1 Scope

(b) Section 40.6.5.3 Test report

(c) Appendix B Reporting of test results (informative)

(d) Appendix E Testing Circulator Pumps (normative)

(e) Appendix G DOE Compared to HI 40.6 Nomenclature

0.2 [Reserved]

A. *General.* To determine the constant load pump energy index (PEI_{CL}) for bare pumps and pumps sold with electric motors or the variable load pump energy index (PEI_{VL}) for pumps sold with electric motors and continuous or non-continuous controls, perform testing in accordance with HI 40.6–2021, except section 40.6.5.3, ''Test report'', including the applicable provisions of HI 9.6.1–2017, HI 9.6.6–2016, HI 9.8–2018, HI 14.1–14.2–2019, the HI Engineering Data Book, ASME MFC–3M–2004, ASME MFC–5M–1985, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, ASME MFC–22–2007, AWWA E103–2015, CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017, as referenced in HI 40.6, with the modifications and additions as noted throughout the provisions below. Where HI 40.6–2021 refers to ''pump,'' the term refers to the ''bare pump,'' as defined in § 431.462. Also, for the purposes of applying this appendix, the term ''volume per unit time,'' as defined in section 40.6.2, ''Terms and definitions,'' of HI 40.6–2021 shall be deemed to be synonymous with the term ''flow rate'' used throughout that standard and this appendix. In addition, the specifications in section 40.6.4.1 of HI 40.6–2021, ''Vertically suspended pumps,'' do not apply to ST pumps and the performance of ST bare pumps considers bowl performance only. However, the specifications in the first paragraph of section 40.6.4.1 of HI 40.6–2021 (including the applicable provisions of HI 14.1–14.2–2019, the HI Engineering Data Book, and AWWA E103–2015, as referenced in section 40.6.4.1 of HI 40.6), ''Vertically suspended pumps,'' do apply to VT pumps and the performance of VT bare pumps considers bowl performance only.

A.1 *Scope.* Section II of this appendix applies to all pumps and describes how to calculate the pump energy index (section II.A) based on the pump energy rating for the minimally-compliant reference pump (PER_{STD}; section II.B) and the constant load pump energy rating (PER_{CL}) or variable load pump energy rating (PER_{VL}) determined in accordance with one of sections III through VII of this appendix, based on the configuration in which the pump is distributed in commerce and the applicable testing method specified in sections III through VII and as described in Table 1 of this appendix.

TABLE 1—APPLICABILITY OF CALCULATION-BASED AND TESTING-BASED TEST PROCEDURE OPTIONS BASED ON PUMP CONFIGURATION

Pump configuration	Pump sub-configuration	Applicable test methods
Bare Pump	Bare Pump OR Pump + Single-Phase Induction Motor (Excluding SVIL) OR Pump + Driver Other Than Electric Motor.	Section III: Test Procedure for Bare Pumps.
Pump + Motor OR Pump + Motor + Controls other than continuous or non-continuous controls (*e.g.,* ON/OFF switches).	Pump + Motor Listed at § 431.25(g) OR SVIL Pump + Motor Covered by DOE's Test Procedure and/or Energy Conservation Standards * OR Pump + Submersible Motor.	Section IV: Testing-Based Approach for Pumps Sold with Motors OR Section V: Calculation-Based Approach for Pumps Sold with Motors.
	Pump (Including SVIL) + Motor Not Covered by DOE's Motor Energy Conservation Standards (Except Submersible Motors) ** OR Pump (Other than SVIL) + Single-Phase Induction Motor (if Section III is not used).	Section IV: Testing-Based Approach for Pumps Sold with Motors.
Pump + Motor + Continuous Controls OR Pump + Motor + Non-Continuous Controls OR Pump + Inverter-Only Synchronous Electric Motor *** (With or Without Controls).	Pump + Motor Listed at § 431.25(g) + Continuous Control OR SVIL Pump + Motor Covered by DOE's Test Procedure and/or Energy Conservation Standards * + Continuous Control OR Pump + Submersible Motor + Continuous Control OR Pump + Inverter-Only Synchronous Electric Motor *** (With or Without Continuous Control).	Section VI: Testing-Based Approach for Pumps Sold with Motors and Controls OR Section VII: Calculation-Based Approach for Pumps Sold with Motors Controls.
	Pump + Motor Listed at § 431.25(g) + Non-Continuous Control OR SVIL Pump + Motor Covered by DOE's Test Procedure and/or Energy Conservation Standards * + Non-Continuous Control OR Pump + Submersible Motor + Non-Continuous Control.	Section VI: Testing-Based Approach for Pumps Sold with Motors and Controls.

TABLE 1—APPLICABILITY OF CALCULATION-BASED AND TESTING-BASED TEST PROCEDURE OPTIONS BASED ON PUMP CONFIGURATION—Continued

Pump configuration	Pump sub-configuration	Applicable test methods
	Pump (Including SVIL) + Motor Not Covered by DOE's Motor Test Procedure and/or Energy Conservation Standards** (Except Submersible Motors) + Continuous or Non-Continuous Controls OR Pump (Other than SVIL) + Single-Phase Induction Motor + Continuous or Non-Continuous Controls (if Section III is not used).	Section VI: Testing-Based Approach for Pumps Sold with Motors and Controls.

* All references to ''Motor Covered by DOE's Motor Test Procedure and/or Energy Conservation Standards'' refer to those listed at § 431.446 of this chapter or those for Small Non-Small Electric Motor Electric Motors (SNEMs) at Subpart B to Part 431, including motors of such varieties that are less than 0.25 hp.

** All references to ''Motor Not Covered by DOE's Test Procedure and/or Motor Energy Conservation Standards'' refer to motors not listed at § 431.25 of this chapter or, for SVIL, not listed at either § 431.446 of this chapter or in Subpart B to Part 431 (excluding motors of such varieties that are less than 0.25 hp).

*** All references to ''Inverter-Only Synchronous Electric Motor'' refer to inverter-only electric motors that are synchronous electric motors, both as defined in subpart B to Part 431.

A.2 Section III of this appendix addresses the test procedure applicable to bare pumps. This test procedure also applies to pumps sold with drivers other than motors and ESCC, ESFM, IL, RSHES, RSHIL, RSV, ST, and VT pumps sold with single-phase induction motors.

A.3 Section IV of this appendix addresses the testing-based approach for pumps sold with motors, which applies to all pumps sold with electric motors, except for pumps sold with inverter-only synchronous electric motors, but including pumps sold with single-phase induction motors. This test procedure also applies to pumps sold with controls other than continuous or non-continuous controls (*e.g.,* on/off switches).

A.4 Section V of this appendix addresses the calculation-based approach for pumps sold with motors, which applies to:

A.4.1 Pumps sold with polyphase electric motors regulated by DOE's energy conservation standards for electric motors at § 431.25(g), and

A.4.2 SVIL pumps sold with small electric motors regulated by DOE's energy conservation standards at § 431.446 or sold with SNEMs regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part but including motors of such varieties that are less than 0.25 hp, and

A.4.3 Pumps sold with submersible motors.

A.5 Section VI of this appendix addresses the testing-based approach for pumps sold with motors and controls, which applies to all pumps sold with electric motors (including single-phase induction motors) and continuous or non-continuous controls and to pumps sold with inverter-only synchronous electric motors with or without controls.

A.6 Section VII of this appendix discusses the calculation-based approach for pumps sold with motors and controls, which applies to:

A.6.1 Pumps sold with polyphase electric motors regulated by DOE's energy conservation standards for electric motors at § 431.25(g) and continuous controls and

A.6.2 Pumps sold with inverter-only synchronous electric motors regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part,

A.6.3 SVIL pumps sold with small electric motors regulated by DOE's energy conservation standards at § 431.446 (but including motors of such varieties that are less than 0.25 hp) and continuous controls or with SNEMs regulated by DOE's test procedure and/or energy conservation standards at subpart B of this part (but including motors of such varieties that are less than 0.25 hp) and continuous controls, and

A.6.4 Pumps sold with submersible motors and continuous controls.

B. *Measurement Equipment.*

B.1 Instrument Accuracy. For the purposes of measuring pump power input, driver power input to the motor or controls, and pump power output, the equipment specified in HI 40.6–2021 Appendix C (including the applicable provisions of ASME MFC–5M–1985, ASME MFC–3M–2004, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, ASME MFC–22–2007, CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017, as referenced in Appendix C of HI 40.6) necessary to measure head, speed of rotation, flow rate, temperature, torque, and electrical power must be used and must comply with the stated accuracy requirements in HI 40.6–2021 Table 40.6.3.2.3 except as noted in sections III.B, IV.B, V.B, VI.B, and VII.B of this appendix. When more than one instrument is used to measure a given parameter, the combined accuracy, calculated as the root sum of squares of individual instrument accuracies, must meet the specified accuracy requirements.

B.2 Calibration. Calibration requirements for instrumentation are specified in Appendix D of HI 40.6–2021.

C. *Test Conditions.* Conduct testing at full impeller diameter in accordance with the test conditions, stabilization requirements, and specifications of HI 40.6–2021 Section 40.6.3, ''Pump efficiency testing;'' Section 40.6.4, ''Considerations when determining the efficiency of certain pumps'' including the applicable provisions of HI 14.1–14.2–2019, the HI Engineering Data Book, and AWWA E103–2015, as referenced in section 40.6.4 of HI 40.6; section 40.6.5.4 (including appendix A), ''Test arrangements,'' including the applicable provisions of HI 9.6.1–2017, HI 9.6.6–2016, HI 9.8–2018, HI Engineering Data Book, and AWWA E103–2015 as referenced in appendix A of HI 40.6; and section 40.6.5.5, ''Test conditions'' including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6–2021. For ST pumps, head measurements must be based on the bowl assembly total head as described in section A.5 of 40.6–2021, including the applicable provisions of the HI Engineering Data Book and AWWA E103–2015 as referenced in ins section A.5 of HI 40.6–2021, and the pump power input or driver power input, as applicable, must be based on the measured input power to the driver or bare pump, respectively; section 40.6.4.1, ''Vertically suspended pumps,'' does not apply to ST pumps.

C.1 Nominal Speed of Rotation. Determine the nominal speed of rotation based on the range of speeds of rotation at which the pump is designed to operate, in accordance with sections I.C.1.1, I.C.1.2, and I.C.1.3 of this appendix, as applicable. When determining the range of speeds at which the pump is designed to operate, DOE will refer to published data, marketing literature, and other publicly-available information about the pump model and motor, as applicable.

C.1.1 For pumps sold without motors, select the nominal speed of rotation based on the speed for which the pump is designed.

C.1.1.1 For bare pumps designed for speeds of rotation including 2,880 to 4,320 revolutions per minute (rpm), the nominal speed of rotation shall be 3,600 rpm.

C.1.1.2 For bare pumps designed for speeds of rotation including 1,440 to 2,160 rpm, the nominal speed of rotation shall be 1,800 rpm.

C.1.1.3 For bare pumps designed for speeds of rotation including 960 to 1,439 rpm, the nominal speed of rotation shall be 1,200 rpm.

C.1.2 For pumps sold with induction motors, select the appropriate nominal speed of rotation.

C.1.2.1 For pumps sold with 6-pole induction motors, the nominal speed of rotation shall be 1,200 rpm.

C.1.2.2 For pumps sold with 4-pole induction motors, the nominal speed of rotation shall be 1,800 rpm.

C.1.2.3 For pumps sold with 2-pole induction motors, the nominal speed of rotation shall be 3,600 rpm.

C.1.3 For pumps sold with non-induction motors, select the appropriate nominal speed of rotation.

C.1.3.1 Where the operating range of the pump and motor includes speeds of rotation between 2,880 and 4,320 rpm, the nominal speed of rotation shall be 3,600 rpm.

C.1.3.2 Where the operating range of the pump and motor includes speeds of rotation between 1,440 and 2,160 rpm, the nominal speed of rotation shall be 1,800 rpm.

C.1.3.3 Where the operating range of the pump and motor includes speeds of rotation between 960 and 1,439, the nominal speed of rotation shall be 1,200 rpm.

C.2 Multi-Stage Pumps. Perform testing on the pump with three stages for RSH and RSV pumps, and nine stages for ST and VT pumps. If the basic model of pump being tested is only available with fewer than the required number of stages, test the pump with the maximum number of stages with which the basic model is distributed in commerce in the United States. If the basic model of pump being tested is only available with greater than the required number of stages, test the pump with the lowest number of stages with which the basic model is distributed in commerce in the United States. If the basic model of pump being tested is available with both fewer and greater than the required number of stages, but not the required number of stages, test the pump with the number of stages closest to the required number of stages. If both the next lower and next higher number of stages are equivalently close to the required number of stages, test the pump with the next higher number of stages.

C.3 Twin-Head Pumps. For twin-head pumps, perform testing on an equivalent single impeller IL or SVIL pump as applicable, constructed by incorporating one of the driver and impeller assemblies of the twin-head pump being rated into an adequate IL-style or SVIL-style, single impeller volute and casing. An adequate IL-style or SVIL-style, single impeller volute and casing means a volute and casing for which any physical and functional characteristics that affect energy consumption and energy efficiency are the same as their corresponding characteristics for a single impeller in the twin-head pump volute and casing.

D. *Data Collection and Analysis.*

D.1 Damping Devices. Use of damping devices, as described in section 40.6.3.2.2 of HI 40.6–2021, are only permitted to integrate up to the data collection interval used during testing.

D.2 Stabilization. Record data at any tested load point only under stabilized conditions, as defined in HI 40.6–2021 section 40.6.5.5.1, including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6, where a minimum of two measurements are used to determine stabilization.

D.3 Calculations and Rounding. Normalize all measured data to the nominal speed of rotation of 3,600 or 1,800 or 1,200 rpm based on the nominal speed of rotation selected for the pump in section I.C.1 of this appendix, in accordance with the procedures specified in section 40.6.6.1.1 of HI 40.6–2021. Except for the ''expected BEP flow rate,'' all terms and quantities refer to values determined in accordance with the procedures set forth in this appendix for the rated pump. Perform all calculations using raw measured values without rounding. Round PER_{CL} and PER_{VL} to three significant digits, and round PEI_{CL}, and PEI_{VL} values, as applicable, to the hundredths place (*i.e.,* 0.01).

D.4 Pumps with BEP at Run Out. Test pumps for which the expected BEP corresponds to a volume rate of flow that is within 20 percent of the expected maximum flow rate at which the pump is designed to operate continuously or safely (*i.e.,* pumps with BEP at run-out) in accordance with the test procedure specified in this appendix, but with the following exceptions:

D.4.1 Use the following seven flow points—40, 50, 60, 70, 80, 90, and 100 percent of the expected maximum flow rate for determination of BEP in sections III.D, IV.D, V.D, VI.D, and VII.D of this appendix instead of the flow points specified in those sections.

D.4.2 Use flow points of 60, 70, 80, 90, and 100 percent of the expected maximum flow rate of the pump to determine pump power input or driver power input instead of the flow points of 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate specified in sections III.E.1.1, IV.E.1, V.E.1.1, VI.E.1, and VII.E.1.1 of this appendix.

D.4.3 To determine PER_{CL} in sections III.E, IV.E, and V.E and to determine PER_{STD} in section II.B, use load points of 65, 90, and 100 percent of the BEP flow rate determined with the modified flow points specified in this section I.D.4 of this appendix instead of 75, 100, and 110 percent of BEP flow. In section II.B.1.1, where alpha values are specified for the load points 75, 100, and 110 percent of BEP flow rate, instead apply the alpha values to the load points of 65, 90, and 100 percent of the BEP flow rate determined with the modified flow points specified in this section I.D.4 of this appendix. However, in sections II.B.1.1.1 and II.B.1.1.1.1 of this appendix, use 100 percent of the BEP flow rate as specified to determine $\eta_{pump,STD}$ and Ns as specified. To determine motor sizing for bare pumps in sections II.B.1.2.1.1 and III.E.1.2.1.1 of this appendix, use a load point of 100 percent of the BEP flow rate instead of 120 percent.

II. Calculation of the Pump Energy Index

A. * * *

A.1. For pumps rated as bare pumps or pumps sold with motors (other than inverter-only synchronous electric motors), determine the PEI_{CL} using the following equation:

$$PEI_{CL} = \frac{PER_{CL}}{PER_{STD}}$$

Where:

PEI_{CL} = the pump energy index for a constant load (hp),

PER_{CL} = the pump energy rating for a constant load (hp), determined in accordance with either section III (for bare pumps; ESCC, ESFM, IL, RSHES, RSHIL, RSV, ST or VT pumps sold with single-phase induction motors; and pumps sold with drivers other than electric motors), section IV (for pumps sold with motors and rated using the testing-based approach), or section V (for pumps sold with motors and rated using the calculation-based approach) of this appendix, and

PER_{STD} = the PER_{CL} for a pump that is minimally compliant with DOE's energy conservation standards with the same flow and specific speed characteristics as the tested pump (hp), as determined in accordance with section II.B of this appendix.

A.2 For pumps rated as pumps sold with motors and continuous controls or non-continuous controls (including pumps sold with inverter-only synchronous electric motors with or without controls), determine the PEI_{VL} using the following equation:

$$PEI_{VL} = \frac{PER_{VL}}{PER_{STD}}$$

PEI_{VL} = the pump energy index for a variable load (hp),

PER_{VL} = the pump energy rating for a variable load (hp), determined in accordance with section VI (for pumps sold with motors and continuous or non-continuous controls rated using the testing-based approach) or section VII of this appendix (for pumps sold with motors and continuous controls rated using the calculation-based approach), and

PER_{STD} = the PER_{CL} for a pump that is minimally compliant with DOE's energy conservation standards with the same flow and specific speed characteristics as the tested pump (hp), as determined in accordance with section II.B of this appendix.

B. * * *

B.1.1.1.1 Determine the specific speed of the rated pump using the following equation:

$$N_s = \frac{n_{sp} \times \sqrt{Q_{100\%}}}{(H_{100\%}/S)^{0.75}}$$

Where:

Ns = specific speed,

n_{sp} = the nominal speed of rotation (rpm),

$Q'_{100\%}$ = the measured BEP flow rate of the tested pump at full impeller and nominal speed of rotation (gpm),

$H_{100\%}$ = pump total head at 100 percent of the BEP flow rate of the tested pump at full impeller and nominal speed of rotation (ft), and

S = the number of stages with which the pump is being rated

B.1.2.1.2 Determine the default nominal full load motor efficiency as described in

section II.B.1.2.1.2.1 of this appendix for ESCC, ESFM, IL, RSHES, RSHIL, RSV, and VT pumps; section II.B.1.2.1.2.2 of this appendix for ST pumps; and section II.B.1.2.1.2.3 for SVIL pumps.

B.1.2.1.2.1. For ESCC, ESFM, IL, RSHES, RSHIL, RSV, and VT pumps, the default nominal full load motor efficiency is the minimum of the nominal full load motor efficiency standards (open or enclosed) from the table containing the current energy conservation standards for NEMA Design B motors at § 431.25, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section II.B.1.2.1.1 of this appendix.

B.1.2.1.2.2. For ST pumps, prior to the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load motor efficiency is the default nominal full load submersible motor efficiency listed in table 2 of this appendix, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section II.B.1.2.1.1 of this appendix. Starting on the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load motor efficiency shall be the minimum of any nominal full load motor efficiency standard from the table containing energy conservation standards for submersible motors in subpart B of this part, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section II.B.1.2.1.1 of this appendix.

B.1.2.1.2.3. For SVIL pumps, the default nominal full load motor efficiency is the minimum full load motor efficiency standard from the tables containing the current energy conservation standards for polyphase or CSCR/CSIR small electric motors at § 431.446, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section II.B.1.2.1.1 of this appendix, or for SVIL pumps sold with motors less than 0.25 hp, the default nominal full load motor efficiency is 58.3% for 6-pole, 64.6% for 4-pole, and 61.7% for 2-pole motors.

* * * * *

III. Test Procedure for Bare Pumps

A. Scope. This section III applies only to:

A.1 Bare pumps,

A.2 Pumps sold with drivers other than electric motors, and

A.3 ESCC, ESFM, IL, RSHES, RSHIL, RSV, ST, and VT pumps sold with single-phase induction motors.

B. Measurement Equipment. The requirements regarding measurement equipment presented in section I.B of this appendix apply to this section III. In addition, when testing pumps using a calibrated motor, electrical measurement equipment shall meet the requirements of section C.4.3 of HI 40.6–2021 (including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3 of HI 40.6), and motor power input shall be determined according to section 40.6.3.2.3 of HI 40.6–2021 and meet the requirements in Table 40.6.3.2.3 of HI 40.6–2021.

C. Test Conditions. The requirements regarding test conditions presented in section I.C of this appendix apply to this section III. In addition, when testing pumps using a calibrated motor, the conditions in section C.4.3.1 of HI 40.6–2021 shall be met, including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3.1 of HI 40.6–2021.

D. Testing BEP for the Pump. Determine the best efficiency point (BEP) of the pump as follows:

D.1. Adjust the flow by throttling the pump without changing the speed of rotation of the pump and conduct the test at a minimum of the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation, as specified in section 40.6.5.5.1 of HI 40.6–2021, including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6–2021.

D.2. Determine the BEP flow rate as the flow rate at the operating point of maximum pump efficiency on the pump efficiency curve, as determined in accordance with section 40.6.6.3 of HI 40.6–2021, where the pump efficiency is the ratio of the pump power output divided by the pump power input, as specified in Table 40.6.2 of HI 40.6–2021, disregarding the calculations provided in section 40.6.6.2 of HI 40.6–2021.

* * * * *

E.1.2.1.2 Determine the default nominal full load motor efficiency as described in section III.E.1.2.1.2.1 of this appendix for ESCC, ESFM, IL, RSHES, RSHIL, RSV, and VT pumps; or section III.E.1.2.1.2.2. of this appendix for ST pumps; or section III.E.1.2.1.2.3 of this appendix for SVIL pumps.

E.1.2.1.2.1. For ESCC, ESFM, IL, RSHES, RSHIL, RSV, and VT pumps, the default nominal full load motor efficiency is the minimum of the nominal full load motor efficiency standards (open or enclosed) from the table containing the current energy conservation standards for NEMA Design B motors at § 431.25, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section III.E.1.2.1.1 of this appendix.

E.1.2.1.2.2. For ST pumps, prior to the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load motor efficiency is the default nominal full load submersible motor efficiency listed in table 2 of this appendix, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section III.E.1.2.1.1 of this appendix. Starting on the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load motor efficiency is the minimum of any nominal full load motor efficiency standard from the table containing energy conservation standards for submersible motors in subpart B of this part, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in accordance with section III.E.1.2.1.1 of this appendix.

E.1.2.1.2.3. For SVIL pumps, the default nominal full load motor efficiency is the minimum full load motor efficiency standard from the tables containing the current energy conservation standards for polyphase or CSCR/CSIR small electric motors at § 431.446, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower determined in section III.E.1.2.1.1 of this appendix, or for SVIL pumps sold with motors less than 0.25 hp, the default nominal full load motor efficiency is 58.3% for 6-pole, 64.6% for 4-pole, and 61.7% for 2-pole motors.

* * * * *

IV. Testing-Based Approach for Pumps Sold With Motors

A. *Scope.* This section IV applies only to pumps sold with electric motors (excluding pumps sold with inverter-only synchronous electric motors regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part), including single-phase induction motors.

B. *Measurement Equipment.* The requirements regarding measurement equipment presented in section I.B of this appendix apply to this section IV. In addition, when testing pumps using a calibrated motor, electrical measurement equipment shall meet the requirements of section C.4.3 of HI 40.6–2021 (including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3 of HI 40.6), and motor power input shall be determined according to section 40.6.3.2.3 of HI 40.6–2021 and meet the requirements in Table 40.6.3.2.3 of HI 40.6–2021.

C. *Test Conditions.* The requirements regarding test conditions presented in section I.C of this appendix apply to this section IV. In addition, when testing pumps using a calibrated motor, the conditions in section C.4.3.1 of HI 40.6–2021, including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in Section C.4.3.1 of HI 40.6, shall be met.

D. *Testing BEP for the Pump.* Determine the best efficiency point (BEP) of the pump as follows:

D.1. Adjust the flow by throttling the pump without changing the speed of rotation of the pump and conduct the test at a minimum of the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation, as specified in section 40.6.5.5.1 of HI 40.6–2021, including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6–2021.

D.2. Determine the BEP flow rate as the flow rate at the operating point of maximum

pump efficiency on the pump efficiency curve, as determined in accordance with Section 40.6.6.3 of HI 40.6–2021, where the pump efficiency is the ratio of the pump power output divided by the pump power input, as specified in Table 40.6.2 of HI 40.6–2021, disregarding the calculations provided in section 40.6.6.2 of HI 40.6–2021.

* * * * *

V. Calculation-Based Approach for Pumps Sold With Motors

A. *Scope.* This section V can only be used in lieu of the test method in section IV of this appendix to calculate the index for pumps sold with motors listed in section V.A.1, V.A.2, or V.A.3 of this appendix.

A.1 Pumps sold with motors subject to DOE's energy conservation standards for polyphase electric motors at § 431.25(g),

A.2 SVIL pumps sold with small electric motors regulated by DOE's energy conservation standards at § 431.446 or with SNEMs regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part but including motors of such varieties that are less than 0.25 hp, and

A.3. Pumps sold with submersible motors.

A.4. Pumps sold with motors not listed in sections V.A.1, V.A.2, or V.A.3 of this appendix cannot use this section V and must apply the test method in section IV of this appendix.

B. *Measurement Equipment.* The requirements regarding measurement equipment presented in section I.B of this appendix apply to this section V. In addition, when testing pumps using a calibrated motor, electrical measurement equipment shall meet the requirements of section C.4.3 of HI 40.6–2021 (including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3 of HI 40.6), and motor power input shall be determined according to section 40.6.3.2.3 of HI 40.6–2021 and meet the requirements in Table 40.6.3.2.3 of HI 40.6–2021.

C. *Test Conditions.* The requirements regarding test conditions presented in section I.C of this appendix apply to this section V. In addition, when testing pumps using a calibrated motor, the conditions in section C.4.3.1 of HI 40.6–2021, including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3.1 of HI 40.6–2021 shall be met.

D. *Testing BEP for the Pump.* Determine the best efficiency point (BEP) of the pump as follows:

D.1. Adjust the flow by throttling the pump without changing the speed of rotation of the pump and conduct the test at a minimum of the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation, as specified in section 40.6.5.5.1 of HI 40.6–2021, including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6–2021.

D.2. Determine the BEP flow rate as the flow rate at the operating point of maximum pump efficiency on the pump efficiency curve, as determined in accordance with section 40.6.6.3 of HI 40.6–2021, where the pump efficiency is the ratio of the pump power output divided by the pump power input, as specified in Table 40.6.2 of HI 40.6–2021, disregarding the calculations provided in section 40.6.6.2.

* * * * *

E.1.1 Determine the pump power input at 75, 100, and 110 percent of the BEP flow rate by employing a least squares regression to determine a linear relationship between the pump power input at the nominal speed of rotation of the pump and the measured flow rate at the following load points: 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate. Use the linear relationship to determine the pump power input at the nominal speed of rotation for the load points of 75, 100, and 110 percent of the BEP flow rate.

* * * * *

E.1.2.1.1 For pumps sold with motors other than submersible motors, determine the represented nominal full load motor efficiency as described in section V.E.1.2.1.1.1 of this appendix. For pumps sold with submersible motors, determine the default nominal full load submersible motor efficiency as described in section V.E.1.2.1.1.2 of this appendix.

E.1.2.1.1.1 For pumps sold with motors other than submersible motors, the represented nominal full load motor efficiency is that of the motor with which the given pump model is being tested, as determined in accordance with the DOE test procedure for electric motors at § 431.16 or, for SVIL, the DOE test procedure for small electric motors at § 431.444, or the DOE test procedure for SNEMs in subpart B to this part, as applicable (including for motors less than 0.25 hp), and if available, applicable representation procedures in 10 CFR part 429 and this part.

E.1.2.1.1.2 For pumps sold with submersible motors, prior to the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load submersible motor efficiency is that listed in table 2 of this appendix, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower of the pump being tested, or if a test procedure for submersible motors is provided in subpart B to this part, the represented nominal full load motor efficiency of the motor with which the given pump model is being tested, as determined in accordance with the applicable test procedure in subpart B to this part and applicable representation procedures in 10 CFR part 429 and this part, may be used instead. Starting on the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load submersible motor efficiency may no longer be used. Instead, the represented nominal full load motor efficiency of the motor with which the given pump model is being tested, as determined in accordance with the applicable test procedure in subpart B of this part and applicable representation procedures in 10 CFR part 429 and this part, must be used.

* * * * *

VI. Testing-Based Approach for Pumps Sold With Motors and Controls

A. *Scope.* This section VI applies only to pumps sold with electric motors, including single-phase induction motors, and continuous or non-continuous controls, as well as to pumps sold with inverter-only synchronous electric motors that are regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part (with or without controls). For the purposes of this section VI, all references to ''driver input power'' in this section VI or HI 40.6–2021 refer to the input power to the continuous or non-continuous controls.

B. *Measurement Equipment.* The requirements regarding measurement equipment presented in section I.B of this appendix apply to this section VI. In addition, when testing pumps using a calibrated motor, electrical measurement equipment shall meet the requirements of section C.4.3 of HI 40.6–2021 (including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3 of HI 40.6), and motor power input shall be determined according to section 40.6.3.2.3 of HI 40.6–2021 and meet the requirements in Table 40.6.3.2.3 of HI 40.6–2021.

C. *Test Conditions.* The requirements regarding test conditions presented in section I.C of this appendix apply to this section VI. In addition, when testing pumps using a calibrated motor, the conditions in section C.4.3.1 of HI 40.6–2021, including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3.1 of HI 40.6, shall be met.

D. *Testing BEP for the Pump.* Determine the best efficiency point (BEP) of the pump as follows:

D.1. Adjust the flow by throttling the pump without changing the speed of rotation of the pump and conduct the test at a minimum of the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation, as specified in section 40.6.5.5.1 of HI 40.6–2021, including the applicable provisions of HI 9.6.1–2017 as referenced in section 40.6.5.5.1 of HI 40.6–2021.

D.2. Determine the BEP flow rate as the flow rate at the operating point of maximum pump efficiency on the pump efficiency curve, as determined in accordance with section 40.6.6.3 of HI 40.6–2021, where the pump efficiency is the ratio of the pump power output divided by the pump power input, as specified in Table 40.6.2 of HI 40.6–2021, disregarding the calculations provided in section 40.6.6.2.

* * * * *

VII. Calculation-Based Approach for Pumps Sold With Motors and Controls

A. *Scope.* This section VII can only be used in lieu of the test method in section VI of this appendix to calculate the index for pumps listed in sections VII.A.1, VII.A.2, VII.A.3, and VII.A.4 of this appendix.

A.1. Pumps sold with motors regulated by DOE's energy conservation standards for polyphase NEMA Design B electric motors at § 431.25(g) and continuous controls,

A.2. Pumps sold with inverter-only synchronous electric motors regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part,

A.3. SVIL pumps sold with small electric motors regulated by DOE's energy conservation standards at § 431.446 or with SNEMs regulated by DOE's test procedure and/or energy conservation standards in subpart B of this part (but including motors of such varieties that are less than 0.25 hp) and continuous controls,

A.4. Pumps sold with submersible motors and continuous controls, and

A.5. Pumps sold with motors not listed in sections VII.A.1, VII.A.2, VII.A.3, and VII.A.4 of this appendix and pumps sold without continuous controls, including pumps sold with non-continuous controls, cannot use this section and must apply the test method in section VI of this appendix.

B. *Measurement Equipment.* The requirements regarding measurement equipment presented in section I.B of this appendix apply to this section VII. In addition, when testing pumps using a calibrated motor, electrical measurement equipment shall meet the requirements of section C.4.3 of HI 40.6–2021 (including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3 of HI 40.6), and motor power input shall be determined according to section 40.6.3.2.3 of HI 40.6–2021 and meet the requirements in Table 40.6.3.2.3 of HI 40.6–2021.

C. *Test Conditions.* The requirements regarding test conditions presented in section I.C of this appendix apply to this section VII. In addition, when testing pumps using a calibrated motor, the conditions in section C.4.3.1 of HI 40.6–2021, including the applicable provisions of CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, as referenced in section C.4.3.1 of HI 40.6–2021 shall be met.

D. *Testing BEP for the Pump.* Determine the best efficiency point (BEP) of the pump as follows:

D.1. Adjust the flow by throttling the pump without changing the speed of rotation of the pump and conduct the test at a minimum of the following seven flow points: 40, 60, 75, 90, 100, 110, and 120 percent of the expected BEP flow rate of the pump at the nominal speed of rotation, as specified in HI 40.6–2021, except section 40.6.5.3, and appendix B, including the applicable provisions of HI 9.6.1–2017, HI 9.6.6–2016, HI 9.8–2018, HI 14.1–14.2–2019, the HI Engineering Data Book, ASME MFC–3M–2004, ASME MFC–5M–1985, ASME MFC–8M–2001, ASME MFC–12M–2006, ASME MFC–16–2014, ASME MFC–22–2007, AWWA E103–2015, CSA C390–10, IEEE 112–2017, IEEE 114–2010–A, ISO 1438:2017, ISO 2186:2007, ISO 2715:2017, ISO 3354:2008, ISO 3966:2020, ISO 5167–1:2003, ISO 5198:1987, ISO 6416:2017, and ISO 20456:2017, as referenced in HI 40.6–2021.

D.2. Determine the BEP flow rate as the flow rate at the operating point of maximum pump efficiency on the pump efficiency curve, as determined in accordance with section 40.6.6.3 of HI 40.6–2021, where the pump efficiency is the ratio of the pump power output divided by the pump power input, as specified in Table 40.6.2 of HI 40.6–2021, disregarding the calculations provided in section 40.6.6.2.

* * * * *

E.1.2 * * *

* * * * *

L_{full} = motor losses at full load or, for inverter-only synchronous electric motors, motor + inverter losses at full load, as determined in accordance with section VII.E.1.2.1 of this appendix (hp),

* * * * *

E.1.2.1 Determine the full load motor losses using the appropriate motor efficiency value and horsepower as shown in the following equation:

$$L_{full} = \frac{MotorHP}{\left[\eta_{motor,full}/100\right]} - MotorHP$$

Where:

L_{full} = motor losses at full load (hp), or for inverter-only synchronous electric motors, motor + inverter losses at full load,

MotorHP = the horsepower of the motor with which the pump model is being tested (hp), and

$\eta_{motor,full}$ = the represented nominal full load motor efficiency (*i.e.,* nameplate/DOE-certified value) or the represented nominal full load motor + inverter efficiency or the default nominal full load submersible motor efficiency as determined in accordance with section VII.E.1.2.1.1 of this appendix (%).

E.1.2.1.1 For pumps sold with motors other than inverter-only synchronous electric motors or submersible motors, determine the represented nominal full load motor efficiency as described in section VII.E.1.2.1.1.1 of this appendix. For pumps sold with inverter-only synchronous electric motors, determine the represented nominal full load motor + inverter efficiency as described in section VII.E.1.2.1.1.2 of this appendix. For pumps sold with submersible motors, determine the default nominal full load submersible motor efficiency as described in section VII.E.1.2.1.1.3 of this appendix.

E.1.2.1.1.1 For pumps sold with motors other than inverter-only synchronous electric motors or submersible motors, the represented nominal full load motor efficiency is that of the motor with which the given pump model is being tested, as determined in accordance with the DOE test procedure for electric motors at § 431.16 or, for SVIL, the DOE test procedure for small electric motors at § 431.444 or the DOE test procedure for SNEMs in subpart B of this part, as applicable (including for motors less than 0.25 hp), and, if available, applicable representation procedures in 10 CFR part 429 and this part.

E.1.2.1.1.2 For pumps sold with inverter-only synchronous electric motors, the represented nominal full load motor + inverter efficiency is that of the motor with which the given pump model is being tested, as determined in accordance with the DOE test procedure for inverter-only synchronous electric motors in subpart B of this part, and, if available, applicable representation procedures in 10 CFR part 429 and this part.

E.1.2.1.1.3 For pumps sold with submersible motors, prior to the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load submersible motor efficiency is that listed in table 2 of this appendix, with the number of poles relevant to the speed at which the pump is being tested (see section I.C.1 of this appendix) and the motor horsepower of the pump being tested, or if a test procedure for submersible motors is provided in subpart B of this part, the represented nominal full load motor efficiency of the motor with which the given pump model is being tested, as determined in accordance with the applicable test procedure in subpart B of this part and applicable representation procedures in 10 CFR part 429 and this part,

may be used instead. Starting on the compliance date of any energy conservation standards for submersible motors in subpart B of this part, the default nominal full load submersible motor efficiency may no longer be used and instead the represented nominal full load motor efficiency of the motor with which the given pump model is being tested, as determined in accordance with the applicable test procedure in subpart B of this part and applicable representation procedures in 10 CFR part 429 and this part, must be used instead.

E.1.2.2 For load points corresponding to 25, 50, 75, and 100 percent of the BEP flow rate, determine the part load loss factor at each load point as follows:

$$z_i = a \times \left(\frac{P_i}{MotorHP}\right)^2 + b \times \left(\frac{P_i}{MotorHP}\right) + c$$

Where:

z_i = the motor and control part load loss factor at load point i,

a,b,c = coefficients listed in either Table 4 of this appendix for induction motors or Table 5 of this appendix for inverter-only synchronous electric motors, based on the horsepower of the motor with which the pump is being tested,

P_i = the pump power input to the bare pump at load point i, as determined in accordance with section VII.E.1.1 of this appendix (hp),

MotorHP = the horsepower of the motor with which the pump is being tested (hp),

i = load point corresponding to 25, 50, 75, or 100 percent of BEP flow rate, and

$\frac{P_i}{MotorHP} \leq 1.000$. If $\frac{P_i}{MotorHP} > 1.000$, then set $\frac{P_i}{MotorHP} = 1.000$ in the equation in section VII.E.1.2.2 of this appendix to calculate the part load loss factor at load point i.

TABLE 2—DEFAULT NOMINAL FULL LOAD SUBMERSIBLE MOTOR EFFICIENCY BY MOTOR HORSEPOWER AND POLE

Motor horsepower (hp)	Default nominal full load submersible motor efficiency		
	2 poles	4 poles	6 poles
1	55	68	64
1.5	66	70	72
2	68	70	74
3	70	75.5	75.5
5	74	75.5	75.5
7.5	68	74	72
10	70	74	72
15	72	75.5	74
20	72	77	74
25	74	78.5	77
30	77	80	78.5
40	78.5	81.5	81.5
50	80	82.5	81.5
60	81.5	84	82.5
75	81.5	85.5	82.5
100	81.5	84	82.5
125	84	84	82.5
150	84	85.5	85.5
200	85.5	86.5	85.5
250	86.5	86.5	85.5

* * * * *

TABLE 4—INDUCTION MOTOR AND CONTROL PART LOAD LOSS FACTOR EQUATION COEFFICIENTS FOR SECTION VII.E.1.2.2 OF THIS APPENDIX A

Motor horsepower (hp)	Coefficients for induction motor and control part load loss factor (zi)		
	a	b	c
≤5	−0.4658	1.4965	0.5303
>5 and ≤20	−1.3198	2.9551	0.1052
>20 and ≤50	−1.5122	3.0777	0.1847
>50 and ≤100	−0.6629	2.1452	0.1952
>100	−0.7583	2.4538	0.2233

TABLE 5—INVERTER-ONLY SYNCHRONOUS ELECTRIC MOTOR AND CONTROL PART LOAD LOSS FACTOR EQUATION COEFFICIENTS FOR SECTION VII.E.1.2.2 OF THIS APPENDIX A

Motor horsepower (hp)	Coefficients for induction motor and control part load loss factor (zi)		
	a	b	c
≤5	−0.0898	1.0251	0.0667
>5 and ≤20	−0.1591	1.1683	−0.0085
>20 and ≤50	−0.4071	1.4028	0.0055
>50 and ≤100	−0.3341	1.3377	−0.0023
>100	−0.0749	1.0864	−0.0096

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Friday, March 24, 2023

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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
16371–16530 17
16531–16868 20
16869–17142 21
17143–17362 22
17363–17678 23
17679–17986 24

CFR PARTS AFFECTED DURING MARCH

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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
10531 17143
10532 17363

Executive Orders:

14092 16527

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

532 17365
630 15597

6 CFR

37 14473

7 CFR

354 16371–
905 14477
906 14479
993 14481
1222 14484
1710 12806

Proposed Rules:

52 14296
245 17406
984 14083

8 CFR

208 16372

9 CFR

1 16173
2 16173
3 16173

Proposed Rules:

1 14090
2 14090
3 14090
410 12870
412 15290

9 CFR

Proposed Rules:

71 16576
77 16576
78 16576
86 16576

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, 17934
430 .....14014, 15510, 16052, 16869
431 17934

Proposed Rules:

Ch. I 14091
50 .....13717, 13735, 14957, 15620
51 .....13329, 14958
52 .....13735, 14957
72 17164
73 17165
170 13357
171 13357
429 17419
430 .....13520, 16112, 17419
460 17745

11 CFR

Proposed Rules:

113 13384

12 CFR

Ch. X 16531, 17366

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, 17679, 17682, 17685
43 15905
65 15905
71 ....14047, 14048, 14486, 17369, 17688
91 16871
95 17689
97 ....14487, 14488
147 15905
Proposed Rules:
21 ....13071, 14092
25 ....13071, 14092
29 ....13071, 14092
39 ....13385, 14298, 14301, 14303, 14306, 15333, 17426, 17429, 17748, 17751, 17753
71 ....12870, 12872, 13737, 13739, 13740, 13742, 13744, 14514, 14516, 17434, 17436, 17437
259 ....13387, 15620
260 ....13387, 15620
399 ....13387, 13389, 15620, 15622

15 CFR

90 17696
744 ....13673, 17706
Proposed Rules:
231 17439

16 CFR

1220 13686
Proposed Rules:
260 14092

17 CFR

230 17710
232 ....13872, 17710
240 13872
275 13872
Proposed Rules:
230 16921
232 16921
239 16921
270 16921
274 16921
275 ....14672, 16921
279 ....14672, 16921

19 CFR

206 14887
207 14887

20 CFR

Proposed Rules:
726 14094

21 CFR

10 16878
11 13018
73 16182
101 17710
106 17710
170 17710
172 17710
173 17710
184 17710
190 17710
510 ....14893, 16543
516 16543
520 ....14893, 16543
522 ....14893, 16543
524 ....14893, 16543
526 ....14893, 16543
528 14893
529 16543
556 16543
558 ....14893, 16543
803 16878
812 16878
822 16878
900 15126
1100 16551
1107 16551
1114 16551
1140 16551
1143 16551
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
Proposed Rules:
42 16384

24 CFR

51 17725
203 ....12822, 14252
206 12822
Proposed Rules:
50 17755
55 17755
58 17755
200 17755
202 12906
581 16834

25 CFR

140 13018
141 13018
211 13018
213 13018
225 13018
226 13018
227 13018
243 13018
249 13018
Proposed Rules:
226 16386

26 CFR

1 17725
31 14490
301 14259
Proposed Rules:
1 17451

27 CFR

19 17725
Proposed Rules:
9 13072

29 CFR

102 ....14908, 14913
1601 17372
1635 17145
1952 16880
1989 15271
4044 5906
Proposed Rules:
2550 17466

30 CFR

250 17725

31 CFR

16 16885
27 16885
50 16885
542 17727
587 ....13316, 16887, 16889
591 ....13022, 13024

32 CFR

310 16182

33 CFR

100 ....14259, 15275, 17373
110 16185
117 16891
165 ....12829, 12831, 13026, 13316, 14259, 14262, 14265, 14266, 14916, 16188, 16378, 16553, 16893, 17145, 17728, 17730
401 14266
402 ....15275, 16556
Proposed Rules:
100 ....14309, 16386, 17467, 17470
147 ....13745, 15939
165 ....15625, 16576, 16922, 17470

34 CFR

Proposed Rules:
Ch. II 15336
Ch. VI 17777
662 16924
663 16924

36 CFR

Proposed Rules:
13 14963
251 14517

37 CFR

1 ....13028, 17147
41 17147
202 16190
401 17730
404 17730

38 CFR

3 15277
9 15907
17 ....13033, 17740
Proposed Rules:
3 17166
38 17169

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, 16556, 16564, 17159, 17161, 17374, 17376
60 ....14918, 16732
62 15611
63 ....13956, 14280, 16732
81 ....14291, 14920
86 15278
174 ....15613, 15915
180 ....14491, 14495, 15279, 15616, 16379, 16570
266 16732
271 13034
721 13696
1037 15278
Proposed Rules:
50 15940
52 ....13392, 13394, 13752, 13755, 14095, 14104, 15629, 17479, 17481, 17486, 17488
70 14104
170 15346
180 17778
271 13077
751 16389
1090 13758

41 CFR

60–1 12842
102–73 14058
Proposed Rules:
51 15360
102–75 16551
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

45 CFR

Proposed Rules:
12 16551
160 ....16392, 17780
162 ....16392, 17780

46 CFR

110 16310
111 16310
112 16310
113 16310
122 17740
185 17740

502.....16573, 16894
503.....16894
520.....16894
530.....16894
535.....16894
540.....16894
550.....16894
555.....16894
560.....16894

47 CFR

54.....17379
64.....14251
73 .....13715, 14294, 17741
300.....13715

Proposed Rules:

2.....14312
27.....16932
54 .....14529, 15558, 17495
64.....15558
73 .....13398, 13770, 14107, 15637, 16205, 16206, 16392, 17171

48 CFR

204.....17336
208.....17336
209.....17336
212 .....12861, 12862, 17336
213.....17336
215.....17336
216.....17336
225.....12861
227.....17340
228.....17346
232.....12862
237.....17340
239.....17340
242 .....12864, 17346, 17354
243.....17355
252 .....12861, 12862, 17336, 17340, 17346, 17355

Proposed Rules:

212.....17357
225.....17357, 17360
252.....17357
538.....15941

49 CFR

Proposed Rules:

107.....13624
171.....13624
172.....13624
173.....13624
178.....13624
180.....13624
227.....17302
367.....16207
371.....14322
386.....14323
387.....14323

50 CFR

17 .....13038, 14794, 15921
229.....16899
300.....14066
622.....16194
635.....17742
648.....14499, 17397
660.....12865
665.....14081
679 .....12868, 13238, 13328, 14294, 14512, 14926, 16196, 16920, 17403, 17744

Proposed Rules:

17 .....14536, 16776, 16933
20.....17511
36.....14107
217.....14560
223.....16212
300.....13399
622.....13077, 14964
635.....13771, 17171
648 .....13408, 14110, 14590, 15944
660.....17515

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List January 23, 2023

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