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Presidential Documents

Title 3—

The President

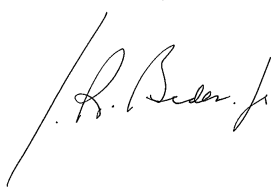
Presidential Determination No. 2023–07 of May 1, 2023

Unexpected Urgent Refugee and Migration Needs

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)(1)) (MRAA), I hereby determine, pursuant to section 2(c)(1) of the MRAA, that it is important to the national interest to furnish assistance under the MRAA in an amount not to exceed $50.3 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected urgent refugee and migration needs in the Western Hemisphere, including through contributions to international organizations by the Bureau of Population, Refugees, and Migration of the Department of State.

You are authorized and directed to submit this determination to the Congress, along with the accompanying Justification, and to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 1, 2023

[FR Doc. 2023–09959
Filed 5–8–23; 8:45 am]
Billing code 4710–10–P

Presidential Documents

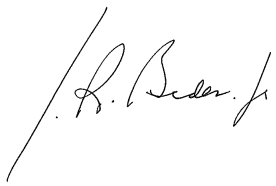
Memorandum of May 3, 2023

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $300 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 3, 2023

[FR Doc. 2023–09960
Filed 5–8–23; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Proclamation 10571 of May 4, 2023

Missing or Murdered Indigenous Persons Awareness Day, 2023

By the President of the United States of America

A Proclamation

On Missing or Murdered Indigenous Persons Awareness Day, we remember the many lives shattered or lost, and commit to working with Native communities to find justice, keep families safe, and help them heal.

Indian Country has been gripped by an epidemic of missing or murdered Indigenous people, whose cases far too often go unsolved. Families have been left investigating disappearances on their own, demanding justice for their loved ones, and grieving pieces of their souls. Generations of activists and organizers have pushed for accountability, safety, and change. We need to respond with urgency and the resources needed to stop the violence and reverse the legacy of inequity and neglect that often drives it.

When I ran for President, I promised to work across jurisdictions to break this cycle of violence. Under the leadership of Secretary Deb Haaland, the Department of the Interior created a new unit to speed up investigations, bring families closure, and keep Native communities safe. At our 2021 White House Tribal Nations Summit, I signed an Executive Order that tasked Federal agencies with investigating the causes of this crisis, collecting better data on these overwhelmingly underreported crimes, and developing a strategy to combat this epidemic, which most often impacts women, girls, LGBTQI+ people in the community, and Two-Spirit Native Americans.

At the 2022 Summit, we built on that progress by announcing that all United States Attorneys' Offices operating in Indian Country would better prioritize addressing this crisis. The Federal Bureau of Investigation has new personnel focusing specifically on missing and murdered Indigenous cases. The Departments of Justice and Interior are coordinating their efforts to more effectively investigate and prosecute these crimes using trauma-informed and culturally responsive approaches. The Department of Justice established a new position devoted to ensuring victims and their families have a voice throughout the criminal justice process.

My Administration is helping Native American survivors and victims' families pursue justice in Tribal courts too. Last year, I worked with the Congress to reauthorize and strengthen the Violence Against Women Act—a law that I first wrote as a United States Senator over 30 years ago to end the scourge of gender-based violence. This time, we expanded recognition of Tribal courts' jurisdiction over non-Native perpetrators suspected of committing crimes of stalking, sexual assault, child abuse, and sex trafficking on Tribal lands. At the same time, we are investing in shelters and rape crisis centers on Tribal lands, housing and legal assistance for survivors, and trauma-informed training that helps law enforcement and courts be more responsive. We are working to address the underlying causes of violence, from human trafficking to longstanding economic disparities, systemic racism, historical trauma, and the need for services to address substance use disorders.

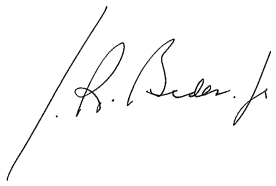
Our efforts are guided by Indigenous survivors and victims' families—and by our enduring Nation-to-Nation relationships. That is why we have convened Tribal leaders, law enforcement, service providers, survivors, and

family members of missing and murdered people to work together to combat this epidemic and support paths to healing. The United States is also working with the governments of Mexico and Canada, and with Indigenous women leaders from all three countries, to better coordinate our response—all the while ensuring that we uphold our solemn trust and treaty responsibilities, strengthening our Nation-to-Nation ties.

For the thousands of families who have lost or are still looking for a friend or loved one, I know this day is full of purpose and pain. Know that your fight to cast light on these injustices has already saved lives. Our Government has a solemn obligation to ensure that every case of a missing or murdered Indigenous person is met with swift, effective action to finally bring justice and healing. Together, we will get that done.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 5, 2023, as Missing or Murdered Indigenous Persons Awareness Day. I call on all Americans and ask all levels of government to support Tribal governments and Tribal communities' efforts to increase awareness and address the issues of missing or murdered Indigenous persons through appropriate programs and activities.

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



[FR Doc. 2023–09981
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Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1422; Project Identifier AD–2022–01208–E; Amendment 39–22413; AD 2023–07–11]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain CFM International, S.A. (CFM) Model LEAP–1B engines. This AD was prompted by a report of multiple aborted takeoffs and air turn-backs (ATBs) caused by high-pressure compressor (HPC) stall, which was induced by high levels of non-synchronous vibration (NSV). A subsequent investigation by the manufacturer revealed that wear on the No. 3 bearing spring finger housing can lead to high levels of NSV. This AD requires repetitive calculations of the oil filter delta pressure (OFDP) data and, depending on the results of the calculation, replacement of the No. 3 bearing spring finger housing. This AD also prohibits installation of an engine with an affected No. 3 bearing spring finger housing onto an airplane that already has one engine with an affected No. 3 bearing spring finger housing installed. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 13, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 13, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1422; 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.

Material Incorporated by Reference:

- For CFM service information identified in this final rule, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432–3272; email: *aviation.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. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1422.

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:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain CFM Model LEAP–1B21, LEAP–1B23, LEAP–1B25, LEAP–1B27, LEAP–1B28, LEAP–1B28B1, LEAP–1B28B2, LEAP–1B28B2C, LEAP–1B28B3, LEAP–1B28BBJ1, and LEAP–1B28BBJ2 engines. The NPRM published in the **Federal Register** on December 1, 2022 (87 FR 73686). The NPRM was prompted by a report of three aborted takeoffs and two ATBs caused by HPC stall, which was induced by high levels of NSV. A subsequent investigation by the manufacturer revealed that wear on the No. 3 bearing spring finger housing can lead to high levels of NSV, which could induce HPC stall. This wear manifests itself early on as higher than typical OFDP loading. As a result of its investigation, the manufacturer published service information that specifies procedures for calculating the OFDP data and replacing the affected No. 3 bearing spring finger housing. In the NPRM, the FAA proposed to require a calculation of the OFDP data and, depending on the results of the calculation, replacement of the No. 3 bearing spring finger housing. In the NPRM, the FAA also proposed to prohibit the installation of an engine with an affected No. 3 bearing spring finger housing onto an airplane that already has one engine with an affected No. 3 bearing spring finger housing installed. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from four commenters. The commenters were Air Line Pilots Association, International (ALPA), American Airlines (AA), Lynx Air, and an anonymous commenter. ALPA and the anonymous commenter supported the proposed AD without change. AA and Lynx Air requested changes to the proposed AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Include Additional Method To Correct Unsafe Condition

AA requested that the FAA provide an additional solution using Original Equipment Manufacturer (OEM) provided data. AA stated that the OEM, who generates all data plots in CFM Fleet Monitor, should be required to generate a customer notification report (CNR) based on the points specified in the service bulletin (SB). AA stated that this solution would reduce human error of each operator required to access the data and manually complete the assessment. AA also noted that the automated process would provide a more robust and repeatable method for calculating the OFDP rate of change and allow OEM subject matter experts to review the data before releasing the CNR. AA also suggested that the My Fleet Monitor incorporate titles on the graphs to clarify which graph is applicable.

In response to this comment, an operator may apply for an alternative method of compliance (AMOC) in accordance with paragraph (k) of this AD, along with substantiation data to show that the alternative method provides an acceptable level of safety. The FAA cannot require the type certificate holder (TCH) to implement specific actions with respect to an unsafe condition but can mandate that operators perform corrective actions to address an unsafe condition. The FAA did not change this AD as a result of this comment.

Request To Update Paragraph (g)(3)

AA requested that the FAA update paragraph (g)(3) of this AD from: ''during the calculation'' to ''at the time of calculation.'' AA stated that ''during the calculation'' was unclear.

The FAA disagrees with the request to update paragraph (g)(3) of this AD because the language ''during the calculation'' is clear.

Request To Update Paragraphs (g)(1), (2), and (3) of This AD

Lynx Air has requested that the FAA update paragraphs (g)(1) and (2) of this AD to mandate the engine OEM monitor and calculate the operator's OFDP data (similar to existing trend monitoring performed by the engine OEM and subsequent communication to customers via the existing CNR process). Lynx Air also requested that the FAA update paragraph (g)(3) of this AD to mandate the engine OEM notify operators about engines that must be replaced upon the recognition that an engine's OFDP data falls outside of the limits specified in CFM SB LEAP–1B–72–00–0369–01A–930A–D, Issue 001–00, dated August 22, 2022 (CFM SB LEAP–1B–72–00–0369–01A–930A–D). Additionally, Lynx Air has requested that the FAA update paragraph (g)(3) of this AD to require operators replace engines within 25 flight cycles (FCs) of the CNR by the engine OEM. Lynx Air reasoned that operators should not be responsible for engine trend monitoring or demonstration of engine trend monitoring at a defined interval. Instead, solely the engine OEM should manage engine trend monitoring. Lynx Air explained that there is an existing process for transmitting engine trend monitoring alerts from CFM to the engine operators; therefore, there should be no reason for the final rule to require data checks at defined intervals. Lynx Air stated that this AD should be limited to requiring operators to respond to CFM CNRs within an acceptable timeframe.

The FAA disagrees with the request to update paragraphs (g)(1) through (3) of this AD to require the engine OEM monitor and calculate the operator's OFDP data. An operator may apply for an AMOC in accordance with paragraph (k) of this AD. The FAA cannot require the TCH to implement specific actions with respect to an unsafe condition but can mandate that operators perform actions to address an unsafe condition. The FAA did not change this AD as a result of this comment.

Request To Remove the Installation Prohibition Paragraph

Lynx Air requested that the FAA remove paragraph (i), Installation Prohibition, specified in this AD. Lynx Air stated that an AD issued by the ECO Branch, which applies to an engine, should not establish installation restrictions at the aircraft level. If aircraft-level restrictions are to be mandated, the ACO Branch should issue a separate AD applicable to the airframe. Lynx Air reasoned that neither the CFM SB nor the proposed rule would drive the removal of an affected engine from an aircraft equipped with two affected engines as of the effective date of this AD. Lynx Air stated that it is understood that installing an affected engine onto an airplane already equipped with one affected engine would not introduce a less airworthy condition than that of an aircraft equipped with two affected engines installed before the effective date of this AD. Lynx Air clarified that if dual exposure already exists, as written, this AD will allow dual exposure to continue on one aircraft while prohibiting the introduction of dual exposure on a different aircraft.

The FAA disagrees with the request to remove paragraph (i), Installation Prohibition. The requirement in paragraph (i), Installation Prohibition, which prevents installing an engine with an affected No. 3 bearing spring finger housing on an airplane that already has one engine with an affected No. 3 bearing spring finger housing installed, is part of the control plan to correct the unsafe condition. The OEM performed de-twinning as part of its early containment actions and subsequent investigation, which confirmed that there are no airplanes with two affected engines installed; hence, there is no need for a requirement to de-twin such airplanes to address the unsafe condition. The FAA did not change this AD as a result of this comment.

Request To Modify the Installation Prohibition Paragraph

Lynx Air requested that if the FAA rejects the request to remove paragraph (i), Installation Prohibition, the FAA modify paragraph (i), Installation Prohibition, of this AD to allow the installation of an engine with an affected No. 3 bearing spring finger housing onto an airplane that already has one engine with an affected No. 3 bearing spring finger housing installed as long as the engine that is installed, or the opposite engine, has accrued at least 1,000 FCs since new. Lynx Air reasoned that the OEM explains within CFM SB LEAP–1B–72–00–0369–01A–930A–D that the OFDP monitoring may cease after 1,000 FCs. Lynx Air stated that if this is the case, there should be no airworthiness concerns about the movement of an engine with an affected No. 3 bearing spring finger housing onto an airplane on which the other wing position has an engine with an affected No. 3 bearing spring finger housing installed, as long as the engine being installed has accrued at least 1,000 FCs since new. Lynx Air noted that neither paragraph (i), Installation Prohibition, nor paragraph (j), Definition, of this AD clearly define what an engine with a No. 3 bearing spring finger housing that has accrued more than 1,000 FCs refers to. Lynx Air commented that paragraph (i), Installation Prohibition, of the proposed AD is problematic as written, as an affected engine that has accrued more than 1,000 FCs should be eligible for installation onto the pylon opposite from an affected engine.

The FAA disagrees with the request to modify paragraph (i), Installation Prohibition. Accumulating 1,000 FCs on an engine with an affected No. 3 bearing spring finger housing does not constitute a terminating action for that engine. The OFDP monitoring stops at 1,000 FCs since new, due to the potential for false positives after that threshold is reached under normal engine wear. Therefore, the only terminating action is the removal and replacement of the affected No. 3 bearing spring finger housing, as required by paragraphs (g)(3) and (4) of this AD. The FAA did not change this AD as a result of this comment.

Request To Revise Estimated Costs Section

Lynx Air requested that the FAA modify the Estimated Costs section to predict the cost on U.S. operators more accurately. Lynx Air stated that the Estimated Costs section does not effectively capture the cost on U.S. operators. Lynx Air reasoned that the

estimated costs only consider the time to calculate the OFDP data in response to paragraph (g)(1) of the proposed AD and do not consider the time to calculate the OFDP data on a repetitive basis, as specified in paragraph (g)(2) of the proposed AD.

The FAA notes that the Estimated Costs include the costs for a single calculation of OFDP data. In the case of a repetitive calculation, the FAA cannot predict how many repetitive calculations will be performed. The FAA did not change this AD as a result of this comment.

Request To Revise Paragraph (g)(4) of This AD

Lynx Air requested that the FAA revise paragraph (g)(4) of this AD to more closely align with the parallel requirement of EASA AD 2022–0215, paragraph (3). Lynx Air suggested that the FAA update this AD to state that affected engines may not be released from a qualified shop visit with an affected part installed. Lynx Air reasoned that using the words ''next shop visit after the effective date of this AD'' pose problems for owners and operators who obtain previously operated spare engines. Lynx Air noted that, traditionally, engine shop visit records include records that claim previous compliance with AD requirements but do not include the date of the shop visit or the sequential (1st, 2nd, 3rd, etc.) occurrence at which a particular AD paragraph was complied with. Lynx Air reasoned that it becomes difficult, if not impossible, for an operator to demonstrate that a particular engine complied with paragraph (g)(4) of this AD at the next shop visit after the effective date of the AD, especially if the engine was not in their possession at the time in which the AD became effective.

The FAA disagrees with the request to revise paragraph (g)(4) of this AD. Engine shop visit records should specify the date of the shop visit. An engine shop visit is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. As discussed in a later comment reply, this definition of an engine shop visit has been added to this AD. The FAA did not change this AD as a result of this comment.

Request To Add a Definition of an ''Affected Engine''

Lynx Air requested that the FAA add a definition of an ''affected engine'' to paragraph (j), Definitions, of this AD. Lynx Air reasoned that affected engines should no longer be considered affected after replacing affected parts. Lynx Air stated that given that Table 1 of CFM SB LEAP–1B–72–00–0369–01A–930A–D includes engine serial numbers (S/Ns), the implication is that those engines remain ''affected'' even after the replacement of the affected No. 3 bearing spring finger housing.

The FAA disagrees with the request to add a definition of ''affected engine'' to paragraph (j), Definitions, of this AD. This AD does not use the term ''affected engine.'' The FAA did not change this AD as a result of this comment.

Request To Add a Definition of an ''Engine Shop Visit''

Lynx Air requested that the FAA add a definition of an ''engine shop visit'' to paragraph (j), Definitions, of this AD. Lynx Air reasoned that operators need to understand what qualifies as a shop visit.

The FAA agrees and has added paragraph (j)(2) to the Definitions paragraph of this AD to state: ''For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. The separation of engine flanges solely for the purpose of transportation without subsequent engine maintenance does not constitute an engine shop visit.''

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 Under 1 CFR Part 51

The FAA reviewed CFM SB LEAP–1B–72–00–0369–01A–930A–D, Issue 001–00, dated August 22, 2022. This service information specifies procedures for calculating the OFDP data and replacing the affected No. 3 bearing spring finger housing. This service information also identifies the S/Ns of the affected No. 3 bearing spring finger housings installed on CFM Model LEAP–1B engines. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 8 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
Calculate OFDP data	1 work-hour × $85 per hour = $85	$0	$85	$680
Replace No. 3 bearing spring finger housing	17 work-hours × $85 per hour = $1,445	64,590	66,035	528,280

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:

2023–07–11 CFM International, S.A.: Amendment 39–22413; Docket No. FAA–2022–1422; Project Identifier AD–2022–01208–E.

(a) Effective Date

This airworthiness directive (AD) is effective June 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International, S.A. (CFM) Model LEAP–1B21, LEAP–1B23, LEAP–1B25, LEAP–1B27, LEAP–1B28, LEAP–1B28B1, LEAP–1B28B2, LEAP–1B28B2C, LEAP–1B28B3, LEAP–1B28BBJ1, and LEAP–1B28BBJ2 engines with an installed No. 3 bearing spring finger housing, part number 2542M54G01, and serial number identified in Table 1 of CFM Service Bulletin LEAP–1B–72–00–0369–01A–930A–D, Issue 001–00, dated August 22, 2022 (CFM SB LEAP–1B–72–00–0369–01A–930A–D).

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a report of multiple aborted takeoffs and air turn-backs caused by high-pressure compressor (HPC) stall, which was induced by high levels of non-synchronous vibration, and a subsequent investigation by the manufacturer that revealed wear on the No. 3 bearing spring finger housing. The FAA is issuing this AD to prevent HPC stall. The unsafe condition, if not addressed, could result in engine power loss at a critical phase of flight such as takeoff or climb, loss of thrust control, reduced controllability of the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Before the affected No. 3 bearing spring finger housing accumulates 125 flight cycles (FCs) since new, but not before accumulating 75 FCs since new, or within 50 FCs after the effective date of this AD, whichever occurs later, calculate the oil filter delta pressure (OFDP) data in accordance with the Accomplishment Instructions, paragraphs 5.A.(1) through 5.A.(2) or 5.B.(1) through 5.B.(2), of CFM SB LEAP–1B–72–00–0369–01A–930A–D.

(2) Thereafter, at intervals not to exceed 100 FCs from the last calculation of the OFDP data, and until the affected No. 3 bearing spring finger housing accumulates 1,000 FCs since new, repeat the calculation required by paragraph (g)(1) of this AD.

(3) If, during the calculation required by paragraph (g)(1) or (2) of this AD, the OFDP data exceed the limits specified in the Accomplishment Instructions, paragraph 5.A.(3) or 5.B.(3), of CFM SB LEAP–1B–72–00–0369–01A–930A–D, as applicable, within 25 FCs of performing the calculation, replace the affected No. 3 bearing spring finger housing with a part eligible for installation.

(4) During the next engine shop visit after the effective date of this AD, replace the affected No. 3 bearing spring finger housing with a part eligible for installation.

(h) Terminating Action

Replacement of the affected No. 3 bearing spring finger housing with a part eligible for installation, as specified in paragraphs (g)(3) and (4) of this AD, constitutes terminating action for the calculations required by paragraphs (g)(1) and (2) of this AD.

(i) Installation Prohibition

After the effective date of this AD, do not install an engine with an affected No. 3 bearing spring finger housing onto an airplane that already has one engine with an affected No. 3 bearing spring finger housing installed.

(j) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' is a No. 3 bearing spring finger housing that is not identified in Table 1 of CFM SB LEAP–1B–72–00–0369–01A–930A–D.

(2) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. The separation of engine flanges solely for the purpose of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(k) 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 (l) 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.

(l) 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*.

(m) Material Incorporated by Reference

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

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

(i) CFM Service Bulletin LEAP–1B–72–00–0369–01A–930A–D, Issue 001–00, dated August 22, 2022

(ii) [Reserved]

(3) For CFM service information identified in this AD, contact CFM International Inc., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432–3272; email: *aviation.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 April 8, 2023.

Christina Underwood,

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

[FR Doc. 2023–09737 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–0138; Airspace Docket No. 22–ASO–20]

RIN 2120–AA66

Establishment of Class E Airspace; Calvert, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface for Kentucky Dam State Park Airport, Calvert City, KY, to accommodate area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving this airport.

DATES: Effective 0901 UTC, August 10, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

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 airspace in Culvert, KY, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2023–0138 in the **Federal Register** (88 FR 13740, March 6, 2023), to establish Class E airspace extending upward from 700 feet above the surface at Kentucky Dam State Park Airport, Calvert City, KY, to accommodate RNAV GPS standard instrument approach procedures (SIAPs) serving this airport.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1 annually. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates will subsequently be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Kentucky Dam State Park Airport, Calvert City, KY, and creating an extension to the east to accommodate RNAV GPS standard instrument approach procedures (SIAPs) serving this airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

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. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 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 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.

* * * * *

ASO KY E5 Calvert, KY [Established]

Kentucky Dam State Park Airport, KY
(Lat 37°00′35″ N, long 88°17′58″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Kentucky Dam State Park Airport and 4 miles on each side of the 098° bearing from the airport extending from the 6.5-mile radius to 9.2 miles east of the airport.

Issued in College Park, Georgia, on May 3, 2023.

Lisa E. Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2023–09800 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1222

[Docket No. CPSC–2012–0067]

Safety Standard for Bedside Sleepers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In January 2014, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for bedside sleepers pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The Commission's mandatory standard incorporated by reference the ASTM voluntary standard that was in effect for bedside sleepers at the time, with modifications to further reduce the risk of injury associated with bedside sleepers. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. On February 6, 2023, ASTM notified CPSC that it had published a revised voluntary standard for bedside sleepers. This direct final rule updates the mandatory standard for bedside sleepers to incorporate by reference ASTM's 2023 version of the voluntary standard for bedside sleepers.

DATES: The rule is effective on August 5, 2023, unless the Commission receives a significant adverse comment by June 8, 2023. If the Commission receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of August 5, 2023.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2012–0067, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (email), except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: 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. 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.*

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: *https://www.regulations.gov.* 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. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2012–0067, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Will Cusey, Small Business Ombudsman, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7945 or (888) 531–9070; email: *sbo@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Background

A. Statutory Authority [1]

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for those products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be ''substantially the same as'' the voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA also specifies the process for when a voluntary standards organization revises a standard that the Commission has incorporated by reference under section 104(b)(1). 15 U.S.C. 2056a(b)(4)(B). First, the voluntary standards organization must notify the Commission of its revised voluntary standard. Once the Commission receives that notification, the Commission may reject or accept the revised voluntary standard. The Commission may reject the revised standard by responding to the voluntary standards organization, within 90 days of receiving notification, that it has determined that the revised voluntary standard does not improve the safety of the consumer product covered by the standard, and that the Commission is retaining the existing mandatory standard. If the Commission does not take this action to reject the revised voluntary standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the **Federal Register**). 15 U.S.C. 2056a(b)(4)(B).

B. Bedside Sleepers

A bedside sleeper is a durable infant or toddler product as defined in section 104(f), and is a type of bassinet. 84 FR 49948–49. Section 5.1 of ASTM F2906 states that bedside sleepers are subject to the requirements in ASTM F2194, *Consumer Safety Specification for Bassinets and Cradles.* Section 3.1.2 of ASTM F2906 defines a bedside sleeper as ''a rigid frame assembly that may be combined with a fabric or mesh assembly, or both, used to function as sides, ends, or floor or a combination thereof, and that is intended to provide a sleeping environment for infants and is secured to an adult bed.''

On January 15, 2014, under section 104 of the CPSIA, the Commission published the bedside sleeper rule codified in 16 CFR part 1222, which incorporates by reference ASTM F2906–13, *Standard Consumer Safety Specification for Bedside Sleepers,* as the mandatory standard, with

[1] On April 28, 2023, the Commission voted (4–0) to publish this direct final rule. This direct final rule is based on information and analysis contained in the April 19, 2023, Staff Briefing Package: ASTM's Notice of a Revised Voluntary Standard for Bedside Sleepers (16 CFR part 1222) (Staff Briefing Package), available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Notice-of-a-Revised-Voluntary-Standard-for-Bedside-Sleepers.pdf?VersionId=slWQp6PbnV.76OOoDX63S_oMPxKX7IGD.*

modifications to the standard to further reduce the risk of injury. 79 FR 2581. The modifications in part 1222 changed references in ASTM F2906–13 from the voluntary standard for bassinets (ASTM F2194) to the mandatory standard for bassinets, codified at 16 CFR part 1218 (78 FR 63034 (Oct. 23, 2013)), because the voluntary and mandatory standards for bassinets were not aligned, and bedside sleepers must meet the requirements of the bassinet standard.[2]

CPSC has not updated the bedside sleeper rule since publishing the final rule in 2014. On February 6, 2023, ASTM notified the Commission that it had approved and published a newly revised version of the voluntary standard, ASTM F2906–23. ASTM also informed CPSC that they had previously published 2019 and 2022 versions of ASTM F2906, but the 2019 version reapproved the 2013 version, so there were no material changes between the 2013 and 2019 versions. As explained below, the 2022 version addressed height requirements for side rails in new bedside sleeper designs. ASTM did not notify CPSC of the 2019 or 2022 revisions.

On February 17, 2023, the Commission published in the **Federal Register** a Notice of Availability, requesting comment on whether the revisions to the bedside sleeper voluntary standard improve the safety of bedside sleepers. 88 FR 10304. The public comment period closed on March 3, 2023. CPSC received two comments. One commenter (JPMA) supported updating the mandatory standard to incorporate by reference ASTM F2906–23. The other commenter (a testing laboratory, SGS) alleged existing errors in ASTM F2906 that should be corrected, specifically in section 5.5 on testing of locking and latching devices, and sections 7.2, 7.3, and 7.4, related to marking and labeling. SGS stated that these should be addressed to reduce confusion for test laboratories. This comment relates to material that is in the 2013 ASTM standard that part 1222 currently incorporates by reference, and the 2023 revision does not change. The comment therefore is outside the scope of this assessment of the 2022 and 2023 updates. However, the Commission intends that its staff will work with the ASTM subcommittee for bedside sleepers to address suggested clarifications in a future update.

C. Revisions to the ASTM Bedside Sleeper Standard

As detailed in section II of this preamble, in 2022 and 2023, ASTM revised the height requirements for side rails adjacent to an adult bed, to clarify requirements for newer designs of bedside sleepers that convert from a bassinet into a bedside sleeper. The Commission finds that ASTM F2906–23 improves the safety of bedside sleepers compared to ASTM F2906–13, and will allow this voluntary standard to become the new consumer product safety standard for bedside sleepers 180 days after notification, meaning as of August 5, 2023. However, consistent with the existing part 1222, the Commission will continue to replace ASTM F2906's references to the voluntary standard for bassinets and cradles, ASTM F2194, with references to the mandatory standard for bassinets and cradles, 16 CFR part 1218. While revised § 1222.2(b) of the final rule contains non-substantive editorial changes that simplify how this substitution is codified, the Commission is maintaining references to part 1218 because the voluntary and mandatory standard for bassinets are not aligned and the mandatory standard supersedes the ASTM standard.

II. Revisions to the Voluntary Standard for Bedside Sleepers, ASTM F2906

The ASTM standard for bedside sleepers includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to infants associated with bedside sleepers. Following is a description and assessment of the changes to ASTM F2906 that were made in 2022 and 2023, as reflected in the 2023 version of the voluntary standard.

A. Revisions to the Voluntary Standard Through 2022

Bedside sleepers traditionally had three side rails required to meet the height requirement of a bassinet, 7.5 inches, and one lower side rail required to have at least a 4-inch side height. The side rail with a lower side height was intended to be placed next to the adult bed. Currently, in 16 CFR part 1222, which incorporates by reference ASTM F2906–13, the entire side rail of the bedside sleeper next to the adult bed must have at least a 4-inch side height but also must be no higher than the adult bed mattress height. Sections 5.4 and 5.6 of ASTM F2906.

In 2022, ASTM revised F2906 in response to newer bedside sleeper styles that had come onto the market. Some newer bedside sleepers can convert from a bassinet into a bedside sleeper; one of the side rails can be lowered from 7.5 inches to 4 inches and placed next to the adult bed. In some products, the entire side rail lowers to 4 inches, and in others, a portion of the side rail lowers to 4 inches, and a portion of the side rail remains fixed at 7.5 inches.

One revision in ASTM F2906–22 was intended to clarify that newer bedside sleeper designs with a side rail that can be fully lowered to 4 inches, and a side rail that can be partially lowered to 4 inches (with the remainder of the rail at the 7.5-inch height), are both acceptable under the voluntary standard. ASTM revised section 5.6 of ASTM F2906 regarding the height requirement for lowered and fixed portions of a side rail next to the adult bed. ASTM deleted text that is crossed through and added the underlined text.

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[2] Part 1222 replaces all references to ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles,* with 16 CFR part 1218, Safety Standard for Bassinets and Cradles.

5.6 The bedside sleeper ~~must~~ shall provide a means to be secured to an adult ~~bed and the top~~ bed. The top of any lowered portion of the side rail designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the instructional literature. Any fixed portion or component of the rail that is adjacent to the adult bed is exempt from this requirement.

Thus, ASTM F2906–22 required that each of the 4 side rails of a bedside sleeper meet a side-height requirement: a partial low/lowered side height requirement of 4 inches next to the adult bed and otherwise a fixed side height requirement with a minimum of 7.5 inches.[3] This revision would allow products to have a portion of the side rail at 7.5 inches. In this configuration the fixed-height side rails meet the 7.5-inch side-height requirement, consistent with the Commission's mandatory rule for bassinets. *See* 16 CFR part 1218. The lowered portion of the side rail is also required to be below the adult bed height and secured to, and flush with, the side of the adult bed. CPSC staff assesses that this configuration prevents positional asphyxia hazards due to head/neck entrapment over the lower side rail.

The second revision in section 8.3.4 of ASTM F2906–22 conformed the instructional literature that accompanies bedside sleepers to the changes in section 5.6. ASTM added the underlined text.

8.3.4 To avoid death from the infant's neck being caught on the top rail on the side that is next to the adult bed, the lowered portion of the top rail must be no higher than the adult bed mattress.

B. 2023 Revisions to the Voluntary Standard

After publication of ASTM F2906–22, the ASTM subcommittee found that the revised section 5.6 exempting fixed side rails could be interpreted as allowing a fixed lower rail side to be above the adult bed mattress, posing a strangulation hazard if the infant's neck is caught on this exposed rail that is less than 7.5 inches high. Accordingly, in ASTM F2960–23, ASTM further revised section 5.6 with the following changes compared to the 2022 version:

5.6 The bedside sleeper shall provide a means to be secured to an adult bed. The ~~top of any lowered portion of the side~~ bedside sleeper rail that is ~~designed to be~~ adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the manufacturer's instructions ~~instructional literature~~ except for any portion of the rail that is 7.5 inches or higher when measured according to the side height requirement found in ASTM F2194. ~~Any fixed portion or component of the rail that is adjacent to the adult bed is exempt from this requirement~~.

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C. Assessment of ASTM F2906–23 Revisions

Section 5.4 of ASTM F2906, which has not changed since 2013, requires the lowered portion of a bedside sleeper side rail adjacent to an adult bed to be no less than 4 inches:

5.4 The bedside sleeper shall have a barrier around the entire perimeter of the occupant retention space. If a bedside sleeper is equipped with a side or end portion which is lower or partially lowers by any means, the height of the side rail in the lowest position shall be no less than 4 in. (10.2 cm) when measured from the top of the uncompressed bedside sleeper mattress to the top of the lowered side rail, when the mattress support is in its highest position.

[3] These requirements are continued in ASTM F2906–23 sections 5.4 and 5.1.1.

Table 1 compares side rail height requirements in section 5.6 of 16 CFR part 1222 (incorporating ASTM F2906–13) with those of the revised ASTM F2906–23.

TABLE 1—SIDE-HEIGHT REQUIREMENTS IN 16 CFR PART 1222 AND ASTM F2906–23

16 CFR part 1222 (incorporating ASTM F2906–13)	ASTM F2906–23
5.6 The bedside sleeper must provide a means to be secured to an adult bed and the top bed rail designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the instructional literature.	5.6 The bedside sleeper shall provide a means to be secured to an adult bed. The bedside sleeper rail that is designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the manufacturer's instructions except for any portion of the rail that is 7.5 inches or higher when measured according to the side height requirement found in ASTM F2194.

Based on the analysis in the Staff Briefing Package, the Commission determines that the revisions to the bedside sleeper voluntary standard made in ASTM F2906–23 are an improvement in safety relative to the 2013 version of the standard that is incorporated into the current rule, 16 CFR part 1222, because the revisions clarify the safety requirements for bedside sleeper side rails that use two different side heights for the rail next to the adult bed, allowing portions of the rail to be at an elevated height. This configuration was introduced into the marketplace without side-height provisions in the ASTM F2906–13 standard that specifically address this design feature. ASTM F2906–23 addresses such designs by specifying that the bedside sleeper side rail adjacent to the adult bed does not need to be one continuous rail as long as the side rail meets the height requirements in the revised ASTM F2906–23.

III. Incorporation by Reference

Section 1222.2(a) of the direct final rule incorporates by reference ASTM F2906–23. In accordance with regulations of the Office of the Federal Register (OFR), 1 CFR 51.5(b), section II of this preamble, Revisions to the Voluntary Standard for Bedside Sleepers, ASTM F2906, summarizes the revised provisions of ASTM F2906–23 that the Commission incorporates by reference into 16 CFR part 1222. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F2906–23 is available for viewing on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Additionally, interested parties can purchase a copy of ASTM F2906–23 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *www.astm.org.* Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7479; email: *cpsc-os@cpsc.gov.*

IV. Testing and Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Additionally, because bedside sleepers are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products for compliance with 16 CFR part 1222. Products subject to part 1222 also must be compliant with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[4] the phthalates prohibitions in section 108 of the CPSIA [5] and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,[6] and the consumer registration form requirements in section 104(d) of the CPSIA.[7] In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing bedside sleepers, and codified the requirement at 16 CFR 1112.15(b)(35).

The modified requirements for bedside sleepers in ASTM F2906–23 use testing requirements that are substantially the same as existing requirements for evaluating side rail height compliance. Accordingly, the revisions in ASTM F2906–23 do not require that labs obtain additional test equipment or new training. The Commission considers third party labs that are currently CPSC-accepted for 16 CFR part 1222 to have demonstrated competence to test bedside sleepers to the revised ASTM F2906–23, as incorporated into part 1222. Accordingly, the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. The existing NOR for the Safety Standard for Bedside Sleepers will remain in place, and CPSC-accepted third party labs are expected to update the scope of their accreditations to reflect the revised bedside sleepers standard in the normal course of renewing their accreditations.

V. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable,

[4] 15 U.S.C. 1278a.

[5] 15 U.S.C. 2057c.

[6] 15 U.S.C. 2063(a)(5).

[7] 15 U.S.C. 2056a(d).

unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B).

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2906–23 would take effect as the new CPSC standard for bedside sleepers in the absence of any action by the Commission. Thus, public comments would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments. We note that CPSC did not receive any adverse comments about the requirements in this update based on the Notice of Availability, as reviewed in section I.B of this preamble.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on August 5, 2023. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion that undermines ''the rule's underlying premise or approach'' or a showing that the rule ''would be ineffective or unacceptable without change.'' 60 FR 43108, 43111. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing a further opportunity for public comment.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section V of this preamble regarding the Direct Final Rule Process, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. The Commission also notes the limited nature of this document, which updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VII. Paperwork Reduction Act

The current mandatory standard for bedside sleepers includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The revised mandatory standard for bedside sleepers does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1222, including obtaining approval and a control number, which have now been incorporated into the collection for Third Party Testing of Children's Products, Office of Management and Budget (OMB) Control No. 3041–0159. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

VIII. Environmental Considerations

The Commission's regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

IX. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

X. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for bedside sleepers. Therefore, ASTM F2906–23 automatically will take effect as the new mandatory standard for bedside sleepers on August 5, 2023, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notification, the rule will become effective on August 5, 2023.

XI. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, OIRA has determined that this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1222

Consumer protection, Imports, Incorporation by reference, Infants and

children, Labeling, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1222—SAFETY STANDARD FOR BEDSIDE SLEEPERS

■ 1. Revise the authority citation for part 1222 to read as follows:

Authority: 15 U.S.C. 2056a.

■ 2. Revise § 1222.2 to read as follows:

§ 1222.2 Requirements for bedside sleepers.

(a) Except as provided in paragraph (b) of this section, each bedside sleeper shall comply with all applicable provisions of ASTM F2906–23, *Standard Consumer Safety Specification for Bedside Sleepers,* approved on January 1, 2023. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the U.S. Consumer Product Safety Commission and at the National Archives and Records Administration (NARA). Contact the U.S. Consumer Product Safety Commission at: the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email: *cpsc-os@cpsc.gov.* 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.* A free, read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may also obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: (610) 832–9585; *www.astm.org.*

(b) Each bedside sleeper shall comply with the ASTM F2906–23 standard except in sections 2.1, 5.1, 5.6, 7.1, and 8.1 of ASTM F2906–23, replace both ''F2194 Consumer Safety Specification for Bassinets and Cradles'' and ''Consumer Specification F2194,'' with ''16 CFR part 1218 Safety Standard for Bassinets and Cradles.''

Pamela J. Stone,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–09772 Filed 5–8–23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0102; FRL–10369–02–R9]

Air Plan Approval; Bay Area Air Quality Management District; Nonattainment New Source Review; 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state implementation plan (SIP) revision submitted by the State of California addressing the nonattainment new source review (NNSR) requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). This SIP revision addresses the Bay Area Air Quality Management District (BAAQMD or ''District'') portion of the California SIP. This action is being taken pursuant to the Clean Air Act (CAA or ''Act'') and its implementing regulations.

DATES: This rule is effective on June 8, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2022–0102. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3191 or by email at *ting.pochieh@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On December 23, 2022 (87 FR 78900), the EPA proposed to approve the SIP revision listed in Table 1 of this document, addressing the NNSR requirements for the 2015 ozone NAAQS for the BAAQMD.

TABLE 1—SUBMITTED CERTIFICATION LETTER

District	Adoption date	Submittal date
Bay Area Air Quality Management District (BAAQMD)	9/1/2021	10/6/2021

We proposed approval of the submitted SIP revision because we determined that the 2015 ozone certification submitted by the District fulfills the 40 CFR 51.1314 revision requirement and meets the requirements of CAA section 110 and the minimum SIP requirements of 40 CFR 51.165. Our proposed action contains more information on the SIP revision and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted during the 30-day public comment period. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this certification into the California SIP as proposed.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);

40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The air agency did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 10, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 3, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(595) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(595) New additional materials for the following air district were submitted on October 6, 2021, by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.* (A) Bay Area Air Quality Management District.

(*1*) ''Certification that the Bay Area Air Quality Management District's Existing NNSR Program Addresses the 2015 Ozone NAAQS SIP Requirements Rule,'' adopted September 1, 2021.

(*2*) [Reserved]

(B) [Reserved]

[FR Doc. 2023–09868 Filed 5–8–23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2022–0632; EPA–R08–OAR–2022–0857; FRL–10362–02–R8]

Air Plan Approval, Conditional Approval, Limited Approval and Limited Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this final action the Environmental Protection Agency (EPA) is addressing all or part of several State Implementation Plan (SIP) revisions submitted by the State of Colorado (as explained further in this document, we are taking no action on some specific portions of the State's submittals). We are approving specified parts of SIP revisions submitted by Colorado on March 22, 2021, related to Clean Air Act (CAA) requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the Denver Metro/North Front Range (DMNFR) Serious nonattainment area. We are also finalizing a limited approval and limited disapproval of reasonably available control technology (RACT) SIP revisions from submissions made on May 14, 2018, May 8, 2019, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022. Further, we are finalizing a limited conditional approval and limited disapproval of additional RACT related SIP submissions made on May 31, 2017, and May 10, 2019. Finally, in this document, the EPA is notifying the public of findings as to certain motor vehicle emissions budgets in the DMNFR nonattainment area. This action is being taken under the authority of the CAA.

DATES: This rule is effective on June 8, 2023.

ADDRESSES: The EPA has established two dockets for this action under Docket ID No. EPA–R08–OAR–2022–0632 and EPA–R08–OAR–2022–0857. All documents in the dockets are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6563, email address: *fulton.abby@epa.gov.*

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

I. Background

The background and rationale for this action are discussed in detail in our November 9, 2022 [1] and December 2, 2022 [2] proposed rules, the associated technical support documents (TSDs), and our Response to Comments document for this action. In the proposed rules, we proposed to approve and conditionally approve various actions on Colorado's SIP revisions that were submitted on May 31, 2017; May 14, 2018; May 10, 2019; May 13, 2020; March 22, 2021; May 18, 2021; and May 20, 2022. On November 9, 2022,[3] we proposed to approve portions of Colorado's Serious attainment plan for the 2008 8-hour ozone NAAQS. In addition, we proposed to approve the motor vehicle emission budgets and revisions to Colorado Regulation Number 7 (Reg. 7) in the State's March 22, 2021 submittal. We also proposed to approve all other aspects of the March 22, 2021 submittal, except for the RACT submission for certain sources and enhanced monitoring, which we will be acting on at a later date, and for the attainment demonstration and contingency measures. We also proposed to approve revisions to Colorado Regulation Number 21 (Reg. 21) from the State's May 13, 2020 submittal, and to Reg. 7 from the State's May 18, 2021 submittal. Finally, we proposed to approve the Reg. 7 revisions from the State's May 14, 2018 and May 13, 2020 submittals that were conditionally approved on May 13, 2022 and to convert that conditional approval to a full approval.[4]

On December 2, 2022,[5] we proposed to conditionally approve various revisions to the Colorado SIP that were submitted to the EPA on May 31, 2017, and May 10, 2019. In particular, we proposed to conditionally approve into the SIP certain Reg. 7 rules as fulfilling the requirement to implement RACT for sources that are covered by the 2008 miscellaneous metal coatings control techniques guidelines (CTG) [6] and for major sources of nitrogen oxides (NO_X) located in the Moderate DMNFR Area that were not acted on in our July 3, 2018,[7] February 24, 2021,[8] or November 5, 2021 [9] rulemakings.

II. Comments

We received comments on the November 9, 2022 proposal from several parties, including Boulder County, the City and County of Broomfield, the City and County of Denver, the City of Longmont, and Colorado Communities for Climate Action (CC4CA); the Center for Biological Diversity, 350 Colorado, the Colorado Chapter of the Sierra Club, the National Parks Conservation Association, and Earthworks; individual supporters of the Center for Biological Diversity; and from participants in a mass mailer campaign. The comments were related to compliance with the CAA, disproportionate impacts of ozone, approvability of the attainment plan, emission inventories, reasonable further progress, motor vehicle emissions budgets, RACT and Reasonably Available Control Measures (RACM), suggested control measures, enforceability, and CAA section 110(l).

[1] Proposed rule, Air Plan Approval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 87 FR 67617.

[2] Proposed rule, Air Plan Conditional Approval; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 87 FR 74060.

[3] 87 FR 67617.

[4] Final rule, Air Plan Conditional Approval; Colorado; Revisions to Regulation Number 7 and Oil and Natural Gas RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 87 FR 29228.

[5] 87 FR 74060.

[6] Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, EPA–453/R–08–003, September 2008, available at *https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques.*

[7] Final rule, Approval and Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions, 83 FR 31068, 31069–31072.

[8] Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 11125, 11126–11127.

[9] Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7; Aerospace, Oil and Gas, and Other RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 61071, 61072.

A summary of the comments and the EPA's responses are provided in the Response to Comments document, which is in the docket for this action.

III. Final Action

This final action includes approvals, limited approvals and limited disapprovals, and a limited conditional approval and limited disapproval. Below we will explain which type of action we are taking on each of the submitted measures that is the subject of this action. First, though, we note that we are further evaluating the comments received related to the submitted revisions to the State's RACM demonstration and RACT emission limits for refinery gas fueled process heaters. Therefore, in this final action, the EPA is not acting on the following: Reg. 7, Part E, section II.A.4.g.(i) (NO_X emission limit for refinery fuel gas heaters) from the May 20, 2022 submittal for process heaters, and RACM from the March 22, 2021 submittal. The EPA proposed to approve these portions of the respective SIP submittals in our November 9, 2022 proposal. These portions of the SIP submittals will be acted on at a later date. This final action also does not address the submitted attainment demonstration, enhanced monitoring, RACM, or contingency measures.

Below is our explanation of the different elements of this final action.

Approvals

The EPA is approving portions of the 8-Hour Ozone Attainment Plan submitted by the State of Colorado for the DMNFR Area on March 22, 2021, specifically:

- Milestone and future year emission inventories;
- Reasonable further progress (RFP) demonstration;
- Motor vehicle emissions budgets for the 2020 RFP milestone year, as shown in Table 4, because they are consistent with the RFP demonstration for the 2008 ozone NAAQS finalized for approval herein and meet the other criteria in 40 CFR 93.118(e);
- Demonstration that Colorado meets the Clean Fuel Fleet Program requirements of CAA section 182(c)(4);
- Motor vehicle inspection/maintenance (I/M) program; and
- Nonattainment new source review (NNSR) program.

We are also approving SIP revisions to Reg. 7, submitted by the State on May 8, 2019, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022, as shown in Table 1. Finally, the EPA is approving and finding that the motor vehicle emissions budgets [10] for NO_X and volatile organic compounds (VOCs) for 2020 in the DMNFR area, as well as the northern and southern sub-areas of the DMNFR area, submitted with the RFP demonstration in the March 22, 2021 SIP submittal, are adequate for transportation conformity purposes. Under CAA section 176(c), transportation conformity requires that federally supported highway and transit project activities conform to the applicable SIP; EPA's transportation conformity regulations establish the criteria and procedures for determining whether projects conform.[11] Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.[12] The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4).[13] As a result of our approval of the budgets and our adequacy finding, the DMNFR area, and the area's northern and southern sub-areas, must use the budgets from the submitted RFP demonstration for future transportation conformity determinations.

Limited Approvals and Limited Disapprovals

After evaluating comments received on the proposal for this action, we are finalizing a limited approval and limited disapproval of the rules submitted by the State on May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022, as shown in Table 2, and of the RACT categories in Table 3.

We are also finalizing a limited conditional approval and limited disapproval of two RACT submissions related to the miscellaneous metal coatings CTG and glass melting furnaces. That part of this action is explained separately below.

We are finalizing a limited approval and limited disapproval of the regulations submitted on May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022, because we have determined that they strengthen the existing EPA-approved Colorado SIP and are largely consistent with the relevant CAA requirements, but that some aspects of these rules prevent the EPA from finding that they satisfy *all* of the applicable requirements of the CAA. Specifically, these rules do not include sufficient reporting requirements to ensure that citizens will be able to enforce the SIP requirements, as is necessary under the CAA and EPA regulations.[14] That is, the regulations in Table 2 require facilities to maintain records necessary to establish compliance with these rules for a certain period of time and to make them available to the state on request. But if there is no requirement for these records to be submitted to the state absent a request, then unless the state requests the compliance records and then makes them publicly available, no parties other than the state or the EPA under its CAA section 114 authority will have practical access to the basic information necessary to determine compliance by the regulated entities under these rules. This undermines citizens' ability to participate in the enforcement of the SIP as allowed by CAA section 304. As EPA has repeatedly stated, to be enforceable, a CAA SIP rule must be legally and practically enforceable.[15] We find that a requirement to provide records to the state only on request, without any required periodic reporting to the state, is inconsistent with CAA and regulatory requirements for enforceability. Therefore, due to the lack of adequate reporting requirements (or some equivalent means of ensuring enforceability), the EPA is simultaneously finalizing a limited approval and disapproval of these rules, as authorized under sections 110(k)(3) and (4) and 301(a). This action incorporates the submitted rules into the Colorado SIP.

Section 110(c)(1) of the CAA requires the Administrator to promulgate a Federal implementation plan (FIP) at any time within two years after the Administrator finds that a state has failed to make a required SIP submission, finds a SIP submission to be incomplete, or disapproves a SIP submission, unless the state corrects the deficiency, and the Administrator approves the SIP revision, before the Administrator promulgates a FIP. Therefore, EPA will be obligated under CAA section 110(c)(1) to promulgate a FIP within two years after the effective

[10] See Table 4, below.

[11] See 69 FR 40004 (July 1, 2004); 40 CFR part 93, subpart A.

[12] See 69 FR at 40005.

[13] See also *id.* at 40038–40047.

[14] See 40 CFR 51.211; see also the Response to Comments document for additional explanation of the rationale for this action.

[15] See, *e.g.,* Proposed rule, State Implementation Plans: Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 88 FR 11842 (Feb. 24, 2023) (noting ''requirement that all SIP provisions be legally and practically enforceable by states, the EPA and parties with standing under the citizen suit provision'' of the CAA).

date of this limited disapproval, unless the state submits, and the EPA approves, SIP revisions to correct the identified deficiencies before EPA promulgates the FIP.

In addition, this final limited disapproval will trigger mandatory sanctions in accordance with the timelines and provisions of CAA section 179 and 40 CFR 52.31 unless the state submits, and EPA approves, SIP revisions that correct the identified deficiencies within 18 months of the effective date of the final limited disapproval action.

Note that the submitted rules have been adopted by the Colorado Air Quality Control Commission (AQCC), and the EPA's final limited disapproval does not prevent the State from enforcing these rules. The limited disapproval also does not prevent any portion of the rules from being incorporated by reference into the federally enforceable SIP, as discussed in the July 9, 1992 EPA memo found at: *https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf.*

Limited Conditional Approval and Limited Disapproval

We are finalizing a limited conditional approval and a limited disapproval of SIP submissions that were made on May 31, 2017, and May 10, 2019, respectively addressing RACT for the miscellaneous metal coatings CTG and glass melting furnaces. See Table 3. This section will first explain the conditional nature of this approval, and then explain the limited approval/disapproval.

We are conditionally approving these rules based on the State's October 13, 2022, letter committing to make specified revisions to the rules for miscellaneous metal coatings that were part of the May 31, 2017 submission, and to the rules for glass melting furnaces that were part of the May 10, 2019 submission. This commitment to further revisions was necessary because on reviewing these RACT rules the EPA had identified certain deficiencies. Under section 110(k)(4) of the Act, the EPA may conditionally approve a deficient SIP revision based on a commitment by a state to adopt specific enforceable measures by a date certain, but not later than one year after the date of conditional approval of the plan revision. As to these miscellaneous metal coatings and glass melting furnaces rules, on October 13, 2022, Colorado submitted a letter [16] committing to adopt and submit specific revisions by June 30, 2023.[17] Specifically, the State committed to adopt and submit additional VOC coating content limits, associated work practices, definitions, recordkeeping, and recording requirements for motor vehicle materials; to submit a negative declaration (that is, a certification that there are no covered sources in the area) for pleasure craft surface coatings; and to adopt and submit NO_X emission limits for glass melting furnaces at major sources.[18] We find that the letter includes the necessary commitments to allow us to conditionally approve these rules.

Colorado must adopt and submit the specific revisions it has committed to by June 30, 2023, in order for the conditional approval portion of this action to convert to approval. We note that the Colorado AQCC adopted the revisions as outlined in the commitment letter on December 16, 2022, and we anticipate that the State will meet its deadline to submit these measures as SIP revisions. However, if Colorado does not comply with its commitment by June 30, 2023, if we find Colorado's SIP submission provided to fulfill the commitment to be incomplete, or if we disapprove that SIP submission, the conditional approval portion of this action will convert to a disapproval. If any of these occur and our conditional approval converts to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which will start an 18-month clock for sanctions [19] and the two-year clock for a FIP.[20]

As noted above, this conditional approval is a *limited* conditional approval, and is paired with a limited disapproval. The reason for this limited approval and disapproval is the same as explained above under the heading ''Limited Approvals and Disapprovals'': some of the rule provisions do not require the reporting necessary under the CAA and EPA regulations to ensure that citizens will be able to enforce SIP requirements. We did not identify these reporting deficiencies until after the State had developed proposed revisions and submitted its commitment letter. We have concluded that conditional approval is appropriate despite the reporting deficiencies because the State has fully addressed the issues discussed in connection with our proposed conditional approval action. But we have also concluded that our conditional approval must be *limited* in nature, and must be paired with a limited disapproval, because of the separate issues that we later identified after reviewing comments received on EPA's November 9, 2022 proposed action. As explained above, this limited disapproval starts the FIP and sanctions clocks associated with disapprovals.

TABLE 1—LIST OF REVISIONS TO COLORADO REG. 7 THAT THE EPA IS APPROVING IN THIS ACTION

Revised sections in May 8, 2019, May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022 submittals for approval
May 8, 2019 Submittal:
XVI.D.4.d. (title only).
May 13, 2020, Oil and Gas Submittal:
Reg. 7, Part D, sections I.D.4 (renumbering), I.F.1. (renumbering), and I.J.1.–j. (renumbering).
March 22, 2021 Submittal:
Part E, sections II.A.1.b., II.A.4., II.A.4.a.(iii), II.A.4.b.(i), II.A.6.a.(ii), II.A.6.b.(viii)(B), and III.B.
May 18, 2021 Submittal:
Reg. 7, Outline of Regulation, Part A, B, C, and D; Part E and Part F; Part E, section I.A.3. and I.D.4.–a.(ii) (renumbering).
May 20, 2022 Misc. Metals and Process Heaters Submittal:
Reg. 7, Part C, section I.A.6.b., Part E, sections II.A.2.e–f., II.A.4.b.(iii), II.A.4.e.(ii), II.A.5.a., II.A.5.b.–(i), II.A.5.b.(i)(A)(1)–(ii)(A), II.A.5.b.(ii)(C)–(D), II.A.6.b.(viii)(D) and II.A.6.c.(ii).[21]
May 20, 2022 Part D Definitions Submittal:

[16] The letter is dated October 13, 2022 and was received on October 14, 2022. *See* ''Colorado Commitment Letter: 2008 Ozone NAAQS Serious SIP,'' email from Jessica Ferko, Planning & Policy Program Manager, Colorado Department of Public Health and Environment (in the docket).

[17] Although CAA section 110(k)(4) allows the EPA to make a conditional approval based on a commitment to act within one year of the final conditional approval, Colorado has committed to act on a much more accelerated schedule.

[18] See our proposed conditional approval at 87 FR 74060 for additional explanation.

[19] *See* CAA section 179(a)(2).

[20] *See* CAA section 110(c)(1)(B).

[21] In our proposed rule we inadvertently included Part D, section III.C.4.e.(i)(D)(3)(b) as a revision proposed for approval. However, this section of Reg. 7 is state-only and thus not included in our final action for approval in the SIP.

TABLE 1—LIST OF REVISIONS TO COLORADO REG. 7 THAT THE EPA IS APPROVING IN THIS ACTION—Continued

Revised sections in May 8, 2019, May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022 submittals for approval
Reg. 7, Part D, section III.B.2., III.B.5., III.B.7., III.B.11., and III.B.13.
May 20, 2022 Part D Oil and Gas Submittal:
Reg. 7, Part D, section I.J.1.i.–(D) (renumbering).

TABLE 2—LIST OF COLORADO REVISIONS TO REGS. 7 AND 21 FOR WHICH THE EPA IS FINALIZING A LIMITED APPROVAL AND LIMITED DISAPPROVAL IN THIS ACTION

Submittals	Revised section for limited approval	Reason for limited disapproval
May 14, 2018 Submittal	Reg. 7, Part D, sections XII.J.1.–h., XII.J.h.(i)(A)–(D), XII.J.1.i.–j	No requirements within these provisions to submit records to the state.
May 13, 2020 Oil and Gas Submittal.	Reg. 7, Part D, sections I.D.–D.3.a.(i), I.D.3.b.–b.(i), I.D.3.b.(ii), I.D.3.b.(v), I.D.3.b.(vii), I.D.3.b.(ix), I.E.1.a., I.E.2.–.c.(ii), I.E.2.c.(iv)–c.(viii), I.F.1., F.2.a., I.F.2.c.–c.(vi), I.F.3.–3.a, and I.F.3.c.–c.(i)(C).	No requirements to submit Reg. 7, Part D, section I.F.1.d. or I.F.2.c.(iii) records to the state.
May 13, 2020 Reg. 21 Submittal	Reg. 21, Part A, sections I–I.A.1, I.B.–VI.AAAAAAA., Part B, sections I.–I.A.1., I.B.–VI.TTT.	No requirements within these provisions to submit records to the state.
March 22, 2021 Submittal	Reg. 7, Part C, sections I.O., I.O.2., I.O.3.a., I.O.3.b.–c., I.O.4.a., I.O.5.a., Part E, sections II.A.4.a.(iv), II.A.4.b.(i)(A)(1), II.A.4.b.(iv), II.A.4.c., II.A.5.c.(i)(A)–(2), and V.	No requirements within these provisions to submit records to the state.
May 20, 2022 Misc. Metals and Process Heaters Submittal.	Reg. 7, Part C, sections I.L.1.a., I.L.1.b.(i), I.L.b.(ii), I.L.1.b.(iii)–(vii), I.L.1.c.(ii)–(xxvi), I.L.2.a., I.L.2.b.–I.L.5.d., Part E, sections II.A.2.e–f., II.A.3.p., II.A.4., II.A.4.a.(iv), II.A.4.g.–(ii) (except NO_X emission limit for refinery fuel gas), II.A.5.a.(i)(A), and II.A.5.b.(ii)(B).	No requirements within these provisions to submit records to the state.
May 20, 2022 Part D Oil and Gas Submittal.	Reg. 7, Part D, section I.E.3–a.(iii) and I.J.1.g.–h., and I.J.1.(i)(E)–(F)	No requirements within these provisions to submit records to the state.

TABLE 3—RACT CATEGORIES, FINAL ACTION, AND CORRESPONDING SECTIONS OF SUBMITTALS

RACT category	Final action	Location of RACT demonstration
Storage tanks and centrifugal compressors in the oil and natural gas industry covered by EPA's 2016 Oil and Gas CTG.	Converting previous conditional approval[22] to a limited approval and limited disapproval (conversion to approval appropriate because Colorado sufficiently corrected the deficiency identified in the rulemaking related to the previous conditional approval, but that approval is limited because of a newly identified issue separate from the deficiency that was identified as basis for previous conditional approval. The newly identified issue concerns the lack of requirements within these provisions to submit records of the inspections required in Reg. 7, Part D, section I.E. or performance tests required in I.E.3.a.(iii) and I.J.i.(i). to the state.	Technical Support Document for Reasonably Available Control Technology for the Oil and Gas Industry, Dec. 17, 2021 (contained within the May 20, 2022 submittal).
Combustion equipment at major sources (combustion turbines, combustion equipment at boilers, lightweight aggregate kilns, and natural gas fired process heaters).	Limited approval and limited disapproval because there are no requirements to submit records to the state.	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal) and Technical Support Document for Reasonably Available Control Technology for Major Sources, July 16, 2021 (contained within the May 20, 2022 submittal).
Combustion equipment at major sources (glass melting furnaces).	Conditional approval and disapproval because there are no requirements to submit records to the state.	Technical Support Document for Reasonably Available Control Technology for Major Sources, Draft, October 31, 2022 (contained in the docket of the December 2, 2022 proposed rule).

[22] See 87 FR 29228.

TABLE 3—RACT CATEGORIES, FINAL ACTION, AND CORRESPONDING SECTIONS OF SUBMITTALS—Continued

RACT category	Final action	Location of RACT demonstration
Wood coating	Limited approval and limited disapproval because there are no requirements to submit records to the state.	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal).
Miscellaneous Metal Coatings, Tables 2 and 7 of the CTG.	Limited approval and limited disapproval because there are no requirements to submit records to the state.	Technical Support Document for Reasonably Available Control Technology for Major Sources, July 16, 2021 (contained within the May 20, 2022 submittal).
Miscellaneous Metal Coatings, Table 5, Pleasure Craft Surface Coating VOC Content Limits of the CTG.	Conditional approval	N/A—In October 13, 2022 commitment letter, state committed to provide negative declaration (certification that there are no sources in the area).
Miscellaneous Metal Coatings, Table 7, Motor Vehicle Materials VOC Content Limits of the CTG.	Limited conditional approval and limited disapproval because there are no requirements to submit records to the state.	October 13, 2022 commitment letter.
Foam manufacturing	Limited approval and limited disapproval because there are no requirements to submit records to the state.	Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 14, 2020 (contained within the March 22, 2021 submittal).

TABLE 4—ADEQUATE TOTAL AREA AND SUB-AREA 2020 MOTOR VEHICLE EMISSIONS BUDGETS FOR NO_X AND VOC IN THE DMNFR NONATTAINMENT AREA

Area of applicability	2020 NO_X emissions (tpd)	2020 VOC emissions (tpd)
Northern Sub-area	9.7	8.2
Southern Sub-area	45.0	41.2
Total Nonattainment Area	54.7	49.4

IV. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state be adopted by the state after reasonable notice and public hearing.

As further explained in the response to comments document, the Colorado SIP revisions that the EPA is approving, conditionally approving, and finalizing a limited approval for do not interfere with any applicable requirements of the Act. None of the Reg. 7 and Reg. 21 revisions submitted by the State would be weakening the SIP. Rather, the SIP revisions here will be strengthening the SIP. The Response to Comments for this action provides a full technical basis for this conclusion. Colorado's submittals provide adequate evidence that the revisions were adopted after reasonable public notices and hearings. Therefore, CAA section 110(l) requirements are satisfied.

V. Environmental Justice Considerations

The EPA reviewed demographic data, which provides an assessment of individual demographic groups of populations living within the DMNFR Area. The EPA then compared the data to the national averages for each of the demographic groups. The results of this analysis are being provided for informational and transparency purposes. The results of the demographic analysis indicate that for populations within the DMNFR Area, there are census block groups in which the percentage of people of color (persons who reported their race as a category other than White alone and/or Hispanic or Latino) is greater than the national average (39%) and above the 80th percentile.[23] There are also census block groups within the DMNFR Area that are below the national average (33%) poverty level and above the 80th percentile.[24]

This final action approves the majority of the State's ozone attainment plan submittal for the DMNFR Area and finalizes a limited approval of state rules as meeting RACT and satisfying other CAA requirements. The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The CAA requires this action, and the EPA recognizes the adverse impacts of ozone. Information on ozone and its relationship to negative health impacts can be found in the National Ambient Air Quality Standards for Ozone.[25] We expect that this action and resulting emissions reductions will generally be neutral or contribute to reduced environmental and health impacts on all populations in the DMNFR Area, including people of color and low-income populations. At a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain and/or maintain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

[23] See ''EJSCREEN Maps'' pdf, available within the docket.

[24] *Id.*

[25] Final rule, 73 FR 16436 (March 12, 2008).

VI. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Colorado AQCC Regulation 7 pertaining to the control of ozone via ozone precursors and control of hydrocarbons via oil and gas emissions and Regulation 21 pertaining to Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings (as specified in Tables 1, 2, and 3 above). The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[26]

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act. This final action does not establish any new information collection requirement apart from what is already required by law. This finding relates to the requirement in the CAA for states to submit SIPs under CAA section 182(b) and (c) addressing obligations associated with the 2008 ozone NAAQS.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action is disapproving SIP submissions for not containing the necessary provisions to satisfy CAA enforceability requirements and related regulatory reporting requirements under 40 CFR 51.211.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate as described in UMRA 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the state, on the relationship between the National Government and the state, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it merely disapproves SIP submissions as not containing the necessary provisions to satisfy interstate transport requirements under CAA section 110(a)(2)(D)(i)(I).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This final action approves parts of Colorado's 2008 ozone Serious attainment plan and finalizes a limited approval, limited conditional approval, and limited disapproval of various other submissions. As a result of EPA's approval, limited conditional approval, limited approval, and limited disapproval, Colorado Department of Public Health and Environment (CDPHE) is required to undertake additional actions to meet CAA requirements. The impact of the limited disapproval is described in section III, *Limited Approvals and Limited Disapprovals* and *Limited Conditional Approval and Limited Disapproval,* of this preamble. Information concerning the EPA's efforts to identify potential environmental burdens and susceptible populations in the DMNFR Area is in our November 9, 2022 proposed rule, 87 FR 67633. This action is expected to help ensure that the DMNFR Area meets CAA requirements and there is no information in the record indicating that this action is expected to have disproportionately high or adverse health or environmental effects on a particular group of people.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

[26] 62 FR 27968 (May 22, 1997).

List of Subjects in 40 CFR Part 52

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

Dated: April 26, 2023.

K.C. Becker,

Regional Administrator, Region 8.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. In § 52.319, revise paragraph (a) to read as follows:

§ 52.319 Conditional approval.

(a) The EPA is making a limited conditional approval and limited disapproval of revisions committed to correcting deficiencies identified with submissions made on May 31, 2017, and May 10, 2019. The conditional approval is based upon the October 13, 2022 commitment from the State to submit a SIP revision consisting of rule revisions that will cure the identified deficiencies within twelve months after the EPA's conditional approval. If the State fails to meet its commitment, the conditional approval will be treated as a disapproval with respect to the rules and CTG category for which the corrections are not met. The following rules are conditionally approved, except as they relate to periodic reporting requirements to the state for which we are disapproving, because we have determined that the rules strengthen the SIP and are largely consistent with the relevant CAA requirements:

(1) Regulation number 7 (Reg. 7), Part C, section I.P. and Reg. 7, Part E, section II.A.4. RACT requirements for the Colorado ozone SIP for the ''Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,'' Tables 5 and 7, EPA453/R08003, September 2008 and glass melting furnaces.

(2) [Reserved]

* * * * *

■ 3. In § 52.320:

■ a. In the table in paragraph (c):

■ i. Under the center heading ''5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part C, Surface Coating, Solvents, Asphalt, Graphic Arts and Printing, and Pharmaceuticals'', revise the entry ''I. Surface Coating Operations''.

■ ii. Under the center heading ''5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part D, Oil and Natural Gas Operations'', revise the entries ''I. Volatile Organic Compound Emissions from Oil and Gas Operations'' and ''III. Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations''.

■ iii. Under the center heading ''5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part E, Combustion Equipment and Major Source RACT'', revise the entries ''I. Control of Emissions from Engines'' and ''II. Control of Emissions from Stationary and Portable Engines and Other Combustion Equipment in the 8-Hour Ozone Control Area''.

■ iv. Add the center heading ''5 CCR 1001–21, Regulation Number 21, Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings'' and the entries ''I. Applicability'', ''II. Consumer Products'', ''III. Architectural and Industrial Maintenance Coatings'', and ''IV. Definitions'' at the end of the table, after the entry ''VIII. Steamboat Springs PM_{10} Attainment/Maintenance Area''.

■ b. In the table in paragraph (e):

■ i. Revise the entry ''2008 Ozone Moderate Area Attainment Plan''.

■ ii. Remove the entry ''Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP)'' and add the entry ''Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Moderate State Implementation Plan (RACT SIP)'' in its place.

■ iii. Add the entries ''2008 Ozone Serious Area Attainment Plan'' and ''Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Serious State Implementation Plan (RACT SIP)'' after the entry ''Ozone (8-hour, 2015) DMNFR NNSR Certification''.

The revisions and additions read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	* * *
5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part C, Surface Coating, Solvents, Asphalt, Graphic Arts and Printing, and Pharmaceuticals				
I. Surface Coating Operations.	2/14/2021	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Previous SIP approval 8/5/2011; nonsubstantive changes approved 7/3/2018; substantive changes approved 2/24/2021; nonsubstantive changes approved 11/5/2021. Substantive changes limited approval/disapproval 5/9/2023.

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	* * *
5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part D, Oil and Natural Gas Operations				
I. Volatile Organic Compound Emissions from Oil and Gas Operations.	1/30/2022	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Previous SIP approval 2/13/2008. Substantive changes to section XII; state-only provisions excluded, approved 7/3/2018. Substantive changes approved 11/25/2021 except no action on sections I.D., I.E., I.F. and I.J.1. Conditional approval of sections I.D., I.E., I.F., and I.J.1. 5/13/2022. Limited approval/disapproval section I.D., I.E., I.F., and I.J.1 5/9/2023.
*	*	*	*	* * *
III. Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations.	2/14/2020	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Substantive changes to III.–III.B.3., III.B.5., III.B.7.–III.C.2.c.(ii), III.D.–III.D.2.b., III.D.3.b., and III.E.–III.E.2.c. approved 11/5/2021. Revisions to definitions for pneumatic controls approved 5/9/2–23.
5 CCR 1001–09, Regulation Number 7, Control of Ozone Via Ozone Precursors and Hydrocarbons via Oil and Gas Emissions, (Emissions of Volatile Organic Compounds and Nitrogen Oxides), Part E, Combustion Equipment and Major Source RACT				
I. Control of Emissions from Engines.	11/14/2020	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Previous SIP approval 8/19/2005 and 12/31/2012; nonsubstantive changes to sections XVI.A.–C. 7/3/2018; substantive changes approved 2/24/2021, except sections XVI.D.4.b.(i) and XVI.D.4.d. section XVII.E.3.a. from the Regional Haze SIP approved in SIP. Previous SIP approval 12/31/2012; nonsubstantive changes approved 2/24/2021 and 11/5/2021. Limited approval/disapproval 5/9/2023.
II. Control of Emissions from Stationary and Portable Engines and Other Combustion Equipment in the 8-Hour Ozone Control Area.	2/14/2020	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Previous SIP approvals 8/19/2005 and 12/31/2012; nonsubstantive changes to approved 7/3/2018; substantive changes approved 2/24/2021 except sections XVI.D.4.b.(i) and XVI.D.4.d. Substantive changes approved 11/5/2021. Limited approval/disapproval 5/9/2023except NO_X emission limits for refinery fuel heaters in II.A.4.g.
*	*	*	*	* * *
5 CCR 1001–21, Regulation Number 21, Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings				
I. Applicability	09/14/2019	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Limited approval/disapproval 5/9/2023.
II. Consumer Products	09/14/2019	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Limited approval/disapproval 5/9/2023.
III. Architectural and Industrial Maintenance Coatings.	09/14/2019	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Limited approval/disapproval 5/9/2023.
IV. Definitions	09/14/2019	6/8/2023	[Insert **Federal Register** citation, 5/9/2023.	Limited approval/disapproval 5/9/2023.

* * * * * (e) * * *

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	* * *
Maintenance and Attainment Plan Elements				
*	*	*	*	* * *
Denver Metropolitan Area				

Title	State effective date	EPA effective date	Final rule citation/date	Comments
* *	*	*	* *	* *
2008 Ozone Moderate Area Attainment Plan.	1/14/2017	8/2/2018	83 FR 31068, 7/3/2018	
Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Moderate State Implementation Plan (RACT SIP).	11/21/2017	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Except major source NO_X RACT. Previous SIP approvals 7/03/2018, 2/24/2021, and 11/05/2021. Limited approval/limited disapproval of RACT regulations 5/9/2023.
* *	*	*	* *	* *
2008 Ozone Serious Area Attainment Plan.	2/14/2020	6/8/2023	[insert **Federal Register** citation], 5/9/2023.	Except for contingency measures, RACM, enhanced monitoring, and attainment demonstration.
Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Serious State Implementation Plan (RACT SIP).	2/14/2020	6/8/2023	5/9/2023	Limited approval and limited disapproval.
* *	*	*	* *	* *

[FR Doc. 2023–09229 Filed 5–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2019–0508; FRL–7261–05–OCSPP]

RIN 2070–AK54

Notification of Submission to the Secretary of Agriculture; Pesticides; Exemptions of Certain Plant-Incorporated Protectants (PIPs) Derived From Newer Technologies; Draft Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) a draft regulatory document entitled ''Pesticides; Exemptions of Certain Plant-Incorporated Protectants (PIPs) Derived from Newer Technologies; Final Rule.'' The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: Notification effective as of May 1, 2023.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0508, is available at *https://www.regulations.gov.* That docket contains historical information and this **Federal Register** document; it does not contain the draft final rule.

FOR FURTHER INFORMATION CONTACT: Amanda Pierce, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1470; email address: *pierce.amanda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

FIFRA section 25(a)(2)(B) requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rule within 15 days after receiving it, the EPA Administrator shall include the comments of the Secretary of USDA, if requested by the Secretary of USDA, and the EPA Administrator's response to those comments with the final rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rule, then the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

II. Do any statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submission to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Plant-incorporated protectants, Reporting, and recordkeeping requirements.

Dated: May 1, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–09542 Filed 5–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2022–0005; FRL–10908–01–OCSPP]

Fomesafen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fomesafen in or on Vegetable, bulb, group 3–07; Vegetable, cucurbit, group 9; Vegetable, fruiting, group 8–10; and Vegetable, legume, forage and hay, except soybean,

subgroup 7–22A. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 9, 2023. Objections and requests for hearings must be received on or before July 10, 2023, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0005, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2022–0005 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 10, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2022–0005, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 28, 2022 (87 FR 25178) (FRL–9410–12–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1E8957) by IR–4, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.433 be amended by establishing tolerances for residues of fomesafen, 5-2-chloro-4-(trifluoromethyl)phenoxy-*N*-(methylsulfonyl)-2-nitrobenzamide in or on the raw agricultural commodities Vegetable, bulb, group 3–07 at 0.02 parts per million (ppm); Vegetable, cucurbit, group 9 at 0.025 ppm; Vegetable, foliage of legume, except soybean, subgroup 7A at 0.05 ppm; and Vegetable, fruiting, group 8–10 at 0.025 ppm.

The petition also proposed to remove established tolerances for residues of fomesafen in or on the following: Cantaloupe at 0.025 ppm; Cucumber at 0.025 ppm; Pepper, bell at 0.025 ppm; Pepper, non-bell at 0.025 ppm; Pumpkin at 0.025 ppm; Squash, summer at 0.025 ppm; Squash, winter at 0.025 ppm; Tomato at 0.025 ppm; and Watermelon at 0.025 ppm.

That document referenced a summary of the petition, which is available in the docket, *https://www.regulations.gov.* One comment was submitted in response to this petition. EPA's response to this comment can be found in Unit VI.D. of this publication.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is modifying some of the requested tolerances and one of the tolerance definitions. For details, see Unit VI.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified

therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fomesafen including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fomesafen follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a tolerance rulemaking for fomesafen, in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to fomesafen and established tolerances for residues of that chemical. EPA is incorporating previously published sections of that rulemaking that remains unchanged, as described further in this rulemaking. Specific information on the risk assessment conducted in support of this action, including on the studies received and the nature of the adverse effects caused by fomesafen, can be found in the document titled ''Fomesafen. Human Health Risk Assessment for the Petition to Establish Permanent Tolerances and Associated Registrations for Bulb Vegetable (Group 3–07) and Vegetable, Foliage of Legume Except Soybean (Subgroup 7A) and for Proposed Crop Group Conversions and Expansions for Vegetable, Cucurbit (Group 9) and Vegetable, Fruiting (Group 8–10).'' (hereafter, the Fomesafen Human Health Assessment) which is available in the docket for this action at *https://www.regulations.gov.*

Toxicological profile. Fomesafen is an herbicide that is absorbed by leaves and roots and inhibits potato polyphenol oxidase (PPO), leading to irreversible cell membrane damage. PPO inhibits a step in the protoporphyrin synthesis pathway and is a precursor to both chlorophyll and hemoglobin synthesis. The toxicological database for fomesafen is complete. The primary target organ of fomesafen is the liver. Generally, in rats, after subchronic and chronic exposure, liver histopathology (hyalinization of hepatocytes, necrosis, etc.) provided the most sensitive toxicological endpoint. In mice, liver tumors were observed after chronic exposure, and liver carcinogenicity has been established by a peroxisome proliferator-activated receptor (PPAR)-alpha mode of action. Decreased motor activity was observed at doses above those causing liver toxicity. Post-implantation loss was noted in the rat developmental study, but no quantitative or qualitative evidence of increased susceptibility was seen following *in utero* exposure to rats in developmental studies or in the 2-generation reproduction study. Fomesafen can result in suppression of anti-sheep red blood cell (SRBC) immunoglobulin M response; however, this immunotoxic potential was noted only at high doses. In a metabolism study in rats, fomesafen was readily absorbed in male and female rats after oral dosing. The sex difference was not evident at higher doses, where urine was the main route of excretion after a single oral dose of 500 mg/kg. However, a marked sex difference in disposition was observed at low doses, with females excreting a higher percentage compared to males.

Carcinogenicity was not observed in the rat chronic toxicity/carcinogenicity study. Liver tumors were produced in the mouse carcinogenicity study; however, the Agency determined that fomesafen should be classified as ''Not Likely to be Carcinogenic to Humans.'' This decision was based on the weight-of-evidence (WOE) which supports activation of peroxisome proliferator-activated receptor alpha (PPARα) as the mode of action for fomesafen-induced hepatocarcinogenesis in mice.

Toxicological points of departure/ Levels of concern. The toxicological endpoints for fomesafen have changed since the last rulemaking and have been updated in accordance with current hazard evaluation practices. For a summary of the Toxicological Points of Departure/Levels of Concern used for the safety assessment, see Section 4.5.3. of the Fomesafen Human Health Assessment.

Exposure assessment. Much of the exposure assessment remains the same since the rulemaking that published on February 7, 2018 (83 FR 5312) (FRL–9972–66), although the new exposure assessment incorporates additional dietary exposures from the petitioned-for tolerances. These updates are discussed in this section; for a description of the rest of EPA's approach to and assumptions for the exposure assessment, see Unit III.C in the February 7, 2018, rulemaking.

EPA conducted unrefined acute and chronic dietary (food and drinking water) exposure and risk assessments using the Dietary Exposure Evaluation Model with the Food Commodity Intake Database (DEEM–FCID, ver. 4.02) which incorporates food consumption data from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA; 2005–2010). The acute and chronic dietary assessments used tolerance-level residues, 100 percent crop treated (PCT) and default processing factors.

Drinking water and non-occupational exposures. The estimated drinking water concentrations (EDWCs) have been updated since the 2018 rulemaking. The Agency used EDWCs of 154 parts per billion for the acute assessment and 118 ppb for the chronic assessment.

There are no proposed or registered residential uses of fomesafen at this time; therefore, a quantitative residential assessment was not conducted.

Cumulative exposure. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fomesafen and any other substances. For the purposes of this action, therefore, EPA has not assumed that fomesafen has a common mechanism of toxicity with other substances.

IV. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There is no evidence of increased

susceptibility of rat fetuses to *in utero* exposure to fomesafen. Post-implantation loss was noted in the rat developmental study, but no quantitative or qualitative evidence of increased susceptibility was seen following *in utero* exposure to rats in developmental studies or in the 2-generation reproduction study. As the etiology of the post-implantation loss is unknown, it is considered to be both a maternal and fetal endpoint and not indicative of increased susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the Food Quality Protection Act Safety Factor were reduced to 1X. That decision is based on the following findings:

i. The toxicology database for fomesafen is complete and sufficient for assessing potential susceptibility to infants and children.

ii. The potential of neurotoxicity (decreased motor activity) was observed in the acute neurotoxicity study in the rat. However, there is a low degree of concern for the potential neurotoxic effects of fomesafen since (1) clear no observed adverse effect levels (NOAELs) were identified for the neurotoxic effects; and (2) the endpoints chosen for risk assessment are protective of any potential neurotoxicity.

iii. There is no evidence of increased susceptibility after exposure to fomesafen. Post-implantation loss was observed in the rat developmental toxicity study. However, as the etiology of the effect is unknown, it is considered to be both a maternal and fetal effect.

iv. There are no residential uses for fomesafen, and the dietary assessment is based on high-end exposure assumptions including 100 PCT, tolerance level residues, and high-end estimates derived from ground drinking water modeling estimates. These exposure assessments are not likely to underestimate the resulting estimates of risk from exposure to fomesafen.

V. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing dietary exposure estimates to the acute population-adjusted dose (aPAD) and chronic population-adjusted dose (cPAD). Short-, intermediate-, and chronic-term aggregate risks are evaluated by comparing the estimated total food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists.

Acute dietary (food and drinking water) risks are below the Agency's level of concern of 100% of the aPAD: they are 2.8% of the aPAD for all infants less than 1 year old, the population group with the highest exposure estimate. Chronic dietary (food and drinking water) risks are below the Agency's level of concern of 100% of the cPAD: they are 18% of the cPAD for all infants less than 1 year old, which is the population subgroup with the highest exposure estimate.

Because there are no proposed or registered residential uses of fomesafen, the acute and chronic aggregate risks are the same as the dietary (food and drinking water) risks and are not of concern. Finally, because fomesafen is classified as ''Not Likely to be Carcinogenic to Humans'' due to an absence of carcinogenicity in the available studies, EPA concludes that aggregate exposure to fomesafen will not pose a cancer risk.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to fomesafen residues.

VI. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the February 7, 2018, rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

There are currently no established Codex MRLs for the proposed new uses of fomesafen.

C. Revisions to Tolerances

The petitioner requested tolerances for the Vegetable, foliage of legume, except soybean, subgroup 7A, but EPA is establishing the tolerance for the new crop subgroup Vegetable, legume, forage and hay, except soybeans, subgroup 7–22A. As noted in EPA's regulations, once a revised crop group is established, EPA no longer establishes crop groups under the pre-existing crop group. *See* 40 CFR 180.40(j)(4). EPA updated subgroup 7A in its final rule dated September 21, 2022. *See* Pesticides; Expansion of Crop Grouping Program VI (87 FR 57627) (FRL–5031–13–OCSPP). Additionally, the petitioned-for tolerances of 0.025 ppm for the Vegetable, cucurbit, group 9 and Vegetable, fruiting, group 8–10 are being established at 0.03 ppm to be consistent with Agency rounding practice.

D. Response to Comments

One comment was received in response to the Notice of Filing. The commenter stated in part that they were ''against approval of any of the below applications for further pollution of the air water soil of this earth'' and that the Agency should ''shut down these dirty rotten businesses. now.'' Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the FFDCA authorizes EPA to establish tolerances when it determines that the tolerances are safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that the fomesafen tolerances are safe. The commenter has provided no information indicating that a safety determination cannot be supported.

VII. Conclusion

Therefore, tolerances are established for residues of fomesafen in or on the Vegetable, bulb, group 3–07 at 0.02 ppm; Vegetable, cucurbit, group 9 at 0.03 ppm; Vegetable, fruiting, group 8–10 at 0.03 ppm; and Vegetable, legume, forage and hay, except soybean, subgroup 7–22A at 0.05 ppm.

Additionally, the established tolerances on Cantaloupe; Cucumber; Pepper, bell; Pepper, non-bell; Pumpkin; Squash, summer; Squash, winter; Tomato; and Watermelon are removed as unnecessary.

VIII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66

FR 28355, May 22, 2001), or to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the National Government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

IX. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: May 4, 2023.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. Revise § 180.433 to read as follows:

§ 180.433 Fomesafen; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide fomesafen, including its metabolites and degradates, in or on the following commodities. Compliance with the tolerance levels specified in the following table 1 to this paragraph (a) is to be determined by measuring only fomesafen, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-N-(methylsulfonyl)-2-nitrobenzamide, in or on the commodity.

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Berry, low growing, subgroup 13–07G, except cranberry	0.02
Cotton, gin byproducts	0.025
Cotton, undelinted seed	0.025
Vegetable, bulb, group 3–07	0.02
Vegetable, cucurbit, group 9	0.03
Vegetable, fruiting, group 8–10	0.03
Vegetable, legume, forage and hay, except soybean, subgroup 7–22A	0.05
Vegetable, legume, group 6	0.05
Vegetable, tuberous and corm, subgroup 1C	0.025

(b)–(d) [Reserved]

[FR Doc. 2023–09819 Filed 5–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2023–0042; FRL–10671–02–R4]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on the authorization of South Carolina's changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. These changes were outlined in a September 26, 2022, application to the EPA. We have determined that these changes satisfy all requirements needed for final authorization.

DATES: This authorization is effective on July 10, 2023 without further notice

unless the EPA receives adverse comment by June 8, 2023. If the EPA receives adverse comment, we will publish a timely withdrawal of this direct final action in the **Federal Register** informing the public that the authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2023–0042, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic submittals and lists all publicly available docket materials electronically at *www.regulations.gov.* If you are unable to make electronic submittals or require alternative access to docket materials, please notify Leah Davis through the provided contacts in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Leah Davis if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

FOR FURTHER INFORMATION CONTACT: Leah Davis; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; telephone number: (404) 562–8562; fax number: (404) 562–9964; email address: *davis.leah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA using a direct final action?

The EPA is publishing this action without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This action is a routine program change. However, in the ''Proposed Rules'' section of this issue of the **Federal Register**, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this action, see the **ADDRESSES** section of this document.

If the EPA receives comments that oppose this authorization, we will withdraw this action by publishing a document in the **Federal Register** before the action becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final action.

II. Why are revisions to state programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in South Carolina, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

III. What decisions has the EPA made in this action?

South Carolina submitted a complete program revision application (PRA), dated September 26, 2022, seeking authorization of changes to its hazardous waste program corresponding to certain Federal rules promulgated between July 1, 2018, and June 30, 2021 (including RCRA Clusters [1] XXVII, XXVIII, and XXIX). Additionally, South Carolina's PRA seeks authorization for certain provisions that had been excluded from previously authorized checklists [2] in Clusters XV (Checklist 207 only), XXIV (Checklist 233 only), and XXV (Checklist 237 only). The EPA concludes that South Carolina's application to revise its authorized program meets all of the statutory and regulatory requirements established under RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants South Carolina final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section VI of this document.

South Carolina has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country, as defined at 18 U.S.C. 1151) and for carrying out the aspects of the RCRA program described in its program revision application, subject to the limitations of HSWA, as discussed above.

IV. What is the effect of this authorization decision?

The effect of this decision is that the changes described in South Carolina's authorization application will become part of the authorized State hazardous waste program and will therefore be federally enforceable. South Carolina will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA will maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which the EPA is

[1] A ''cluster'' is a grouping of hazardous waste rules that the EPA promulgates from July 1st of one year to June 30th of the following year.

[2] A ''checklist'' is developed by the EPA for each Federal rule amending the RCRA regulations. The checklists document the changes made by each Federal rule and are presented and numbered in chronological order by date of promulgation.

authorizing South Carolina are already effective under State law and are not changed by this action.

V. What has South Carolina previously been authorized for?

South Carolina initially received final authorization on November 8, 1985, effective November 22, 1985 (50 FR 46437), to implement the RCRA hazardous waste management program. The EPA granted authorization for changes to South Carolina's program on the following dates: September 8, 1988, effective November 7, 1988 (53 FR 34758); February 10, 1993, effective April 12, 1993 (58 FR 7865); November 29, 1994, effective January 30, 1995 (59 FR 60901); April 26, 1996, effective June 25, 1996 (61 FR 18502); October 4, 2000, effective December 4, 2000 (65 FR 59135); August 21, 2001, effective October 22, 2001 (66 FR 43798); September 2, 2003, effective November 3, 2003 (68 FR 52113); February 9, 2005, effective April 11, 2005 (70 FR 6765); March 28, 2005, effective May 27, 2005 (70 FR 15594); and November 20, 2020, effective November 20, 2020 (85 FR 74265).

VI. What changes is the EPA authorizing with this action?

South Carolina submitted a complete program revision application, dated September 26, 2022, seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR 271.21. This application included changes associated with Checklists 240, 241, 242, and 243 from RCRA Clusters XXVII, XXVIII, and XIX. South Carolina was previously authorized for Checklists 207, 233B, 233D2, 233E, and 237 in the November 20, 2020, Final Authorization (85 FR 74265); however certain provisions of the Federal rules associated with these checklists were excluded from authorization due to omissions or errors that the EPA deemed substantive. South Carolina has corrected these errors and omissions and has submitted these corrected provisions for authorization in this application. The EPA has determined, subject to receipt of written comments that oppose this action, that South Carolina's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, the EPA grants final authorization to South Carolina for the following program changes:

Description of Federal requirement	**Federal Register** date and page	Analogous state authority [1]
Checklist 207, Uniform Hazardous Waste Manifest Rule [2].	70 FR 10776, 3/4/2005.	R.61–79.262.21(f)(4).[3]
Checklist 233B, Revisions to the Definition of Solid Waste—Legitimacy-related Provisions, Including Prohibition of Sham Recycling, Definition of Legitimacy, Definition of Contained [2].	80 FR 1694, 1/13/2015; 83 FR 24664, 5/30/2018.	R.61–79.261.2(a)(2)(ii) [reserved].
Checklist 233D2, Revisions to the Definition of Solid Waste—2008 DSW Exclusions and Non-Waste Determinations Including Revisions From 2015 DSW Final Rule [2].		R.61–79.261.2(c)(4) Table 1 and R.61–79.270.42 Entries 9 and 10, Section A (Appendix 1).
Checklist 233E, Revisions to the Definition of Solid Waste—Remanufacturing Exclusion [2].		R.61–79.261.2(c)(4) Table 1.
Checklist 237, Hazardous Waste Generator Improvements Rule [2].	81 FR 85732, 11/28/2016.	R.61–79.261.420(g).
Checklist 240, Safe Management of Recalled Airbags	83 FR 61552, 11/30/2018.	R.61–79.260.10; R.61–79.261.4(i) [reserved]; R.61–79.261.4(j)(1)–(3); R.61–79.262.14(a)(5)(ix).
Checklist 241, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine.	84 FR 5816–5950, 2/22/2019.	R.61–79.261.4(a)(1)(ii); R.61–79.261.7(c); R.61–79.261.33(c) (including Comment) and (e) Table; R.61–79.262.10(m)–(n); R.61–79.262.13(c)(9); R.61–79.262.14(a)(5)(ix)–(x); R.61–79.264.1(g)(13); R.61–79.265.1(c)(16); R.61.–79.266.500 through R.61–79.266.510 [Addition of Subpart P]; R.61–79.268.7 Heading; R.61–79.268.50(a) and (a)(4)–(5); R.61–79.270.1(c)(2)(x); R.61–79.273.80(a) and (d).
Checklist 242, Universal Waste Regulations: Addition of Aerosol Cans.	84 FR 67202, 12/9/2019.	R.61–79.260.10; R.61–79.261.9(c)–(e); R.61–79.264.1(g)(11)(iii)–(v); R.61–79.265.1(c)(14)(iii)–(v); R.61–79.268.1(f)(3)–(5); R.61–79.270.1(c)(2)(viii)(C)–(E); R.61–79.273.1(a)(3)–(5); R.61–79.273.3(b)(2); R.61–79.273.6(a)–(c), including (c)(1)–(2), R.61–79.273.9; R.61–79.273.13(c)(2)(iii)–(iv) and (e), including (e)(1)–(4); R.61–79.273.14(f); R.61–79.273.32(b)(4); R.61–79.273.33(c)(2)(iii)–(iv) and (e), including (e)(1)–(4); R.61–79.273.34(f).
Checklist 243, Modernizing Ignitable Liquids Determinations.	85 FR 40594, 7/7/2020.	R.61–79.260.11(a)–(e), including (e)(1)–(2); R.61–79.261.21(a)(1), (a)(3)(ii)(A)–(D), (a)(4), (a)(4)(i)(A), (a)(4)(i)(D), and Appendix IX to Part 261.

Notes

[1] The South Carolina regulatory citations are from the South Carolina Hazardous Waste Management Regulations, S.C. Code Ann. Regs. 61–79.260–273, effective May 27, 2022.

[2] South Carolina was authorized for this Checklist as a part of the Final Authorization effective November 20, 2020, (85 FR 74265). The provisions listed for this entry were previously excluded from the November 20, 2020 (85 FR 74265) Final Authorization due to an omission or error which was deemed substantive. South Carolina is submitting revisions to these provisions and the EPA is authorizing these individual provisions here.

[3] There are certain regulatory provisions for which the states cannot be authorized to administer or implement. These provisions include the requirements associated with the Federal manifest registry system (Section 262.21) contained within the Uniform Hazardous Waste Manifest Rule (Checklist 207).

VII. Where are the revised state rules different than the Federal rules?

When revised state rules differ from the Federal rules in the RCRA state authorization process, the EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, state programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent states from adopting regulations that are broader in scope than the Federal program, states cannot receive Federal authorization for such regulations, and they are not federally enforceable. There are no State requirements in the program revisions listed in the table above that are considered to be more stringent or broader in scope than the Federal requirements.

VIII. Who handles permits after the authorization takes effect?

When final authorization takes effect, South Carolina will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits that the EPA issued prior to the effective date of authorization until they expire or are terminated. The EPA will not issue any new permits or new portions of permits for the provisions listed in the table above after the effective date of the final authorization. The EPA will continue to implement and issue permits for HSWA requirements for which South Carolina is not yet authorized. The EPA has the authority to enforce State-issued permits after the State is authorized.

IX. How does this action affect Indian country in South Carolina?

South Carolina is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Indian lands associated with the Catawba Indian Nation. Therefore, this action has no effect on Indian country. The EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

X. What is codification and is the EPA codifying South Carolina's hazardous waste program as authorized in this action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of South Carolina's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart PP, for the authorization of South Carolina's program changes at a later date.

XI. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this action, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988), by examining the takings implications of this action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental

effects, this action is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective July 10, 2023.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: March 30, 2023.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2023–08990 Filed 5–8–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230502–0116]

RIN 0648–BL71

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 34

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 34 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP) (Amendment 34), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council) and the Gulf of Mexico Fishery Management Council (Gulf Council). For Atlantic migratory group king mackerel (Atlantic king mackerel), this final rule revises the stock and sector annual catch limits (ACL), and the recreational bag and possession limits off the east coast of Florida. For both Atlantic king mackerel and Atlantic migratory group Spanish mackerel (Atlantic Spanish mackerel), this final rule revises the landing fish intact provisions for the recreational sector. In addition, for Atlantic king mackerel, Amendment 34 revises the acceptable biological catch (ABC) and annual optimum yield (OY). The purpose of this final rule and Amendment 34 is to revise the catch limits based on a recent stock assessment and the best scientific information available, and to revise management measures for Atlantic king and Spanish mackerel.

DATES: This final rule is effective June 8, 2023.

ADDRESSES: Electronic copies of Amendment 34, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-34-catch-level-and-allocation-adjustments-and-management-measures-atlantic-king.*

FOR FURTHER INFORMATION CONTACT: Mary Vara, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the CMP FMP, the South Atlantic and Gulf Councils (Councils) jointly manage fishing for king mackerel and Spanish mackerel in Federal waters from Texas through New York (to the intersection point of Connecticut, Rhode Island, and New York). Atlantic king mackerel and Atlantic Spanish mackerel are managed under the CMP FMP in Federal waters of the Atlantic from New York to the Miami-Dade/Monroe County, Florida, boundary. The Atlantic migratory groups of king mackerel and Spanish mackerel are divided into the northern and southern zones separated by a line extending from the North Carolina/South Carolina border. The CMP FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

All weights in this final rule are in round and eviscerated weight combined, unless otherwise specified.

Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

On January 30, 2023, NMFS published a notice of availability for Amendment 34 and requested public comment (88 FR 5845). On February 10, 2023, NMFS published a proposed rule for Amendment 34 and requested public comment (88 FR 8785). NMFS approved Amendment 34 on April 25, 2023. The proposed rule and Amendment 34 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 34 and implemented by this final rule is described below.

The Atlantic king mackerel ABC is apportioned between the northern and southern zones. Under the current framework procedures in the CMP FMP, the South Atlantic Council is responsible for specifying management measures for Atlantic king mackerel and Atlantic Spanish mackerel. The fishing year for Atlantic king mackerel is from March through February.

The most recent Southeast Data, Assessment and Review (SEDAR) stock assessment for Atlantic king mackerel was completed in April 2020 (SEDAR 38 Update 2020). The assessment update incorporated data through the 2017–2018 fishing year (March 2017 through February 2018). The assessment indicated that Atlantic king mackerel was not overfished or undergoing overfishing. The South Atlantic Council's Scientific and Statistical Committee (SSC) reviewed the SEDAR 38 Update (2020) at their April 2020 meeting and determined that the assessment was conducted using the best scientific information available and was adequate for determining stock status and supporting fishing level recommendations.

The SEDAR 38 Update (2020) incorporated the revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES). In 2018, MRIP replaced the fishing effort estimates from the MRIP Coastal Household Telephone Survey (CHTS) with those from the FES. MRIP–FES is considered by the Councils, their SSCs, and NMFS to be a more robust and reliable estimate of recreational effort than MRIP–CHTS. Total recreational fishing effort estimates generated from MRIP–FES are generally greater than MRIP–CHTS estimates, and those higher effort estimates necessarily increase the recreational landings estimates. This difference in the estimates is because MRIP–FES is designed to more accurately measure fishing activity than MRIP–CHTS, not because there was an increase in fishing effort.

Based on the results of the SEDAR 38 Update (2020), the South Atlantic Council's SSC updated their Atlantic king mackerel catch level recommendations to increase harvest. The South Atlantic Council developed Amendment 34 in response to the results of the SEDAR 38 Update (2020) and their SSC's recommendations. However, the current and revised overfishing limits (OFL), ABC, and ACLs are not directly comparable because they are based on different assessments, and the updated assessment includes changes in the recreational catch estimates based on new MRIP–FES methodology described above.

In addition to the revisions to the stock (total) ACL, sector ACLs, and recreational annual catch target (ACT), the South Atlantic Council is modifying Atlantic king mackerel management measures to allow for harvest at the revised fishing levels. This final rule increases the recreational bag and possession limits for Atlantic king mackerel in the Exclusive Economic Zone (EEZ) off the east coast of Florida. This final rule also modifies the recreational requirement for Atlantic king mackerel and Spanish mackerel to be landed with heads and fins intact to allow for damaged Atlantic king mackerel and Atlantic Spanish mackerel caught under the recreational bag limit and that comply with the minimum size limits, to be possessed and offloaded ashore.

The South Atlantic Council determined that the actions in Amendment 34 would achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Management Measures Contained in This Final Rule

This final rule revises the Atlantic king mackerel stock (total) ACLs, sector ACLs, commercial zone ACLs, commercial southern zone seasonal ACLs, and the recreational ACT based on the results of SEDAR 38 Update (2020) and the revised MRIP–FES estimates. Additionally, this final rule revises the recreational bag and possession limits off the east coast of Florida for Atlantic king mackerel, and modifies the recreational requirement for Atlantic king mackerel and Atlantic Spanish mackerel to be landed with heads and fins intact.

Atlantic King Mackerel Stock ACLs

As implemented through Amendment 26 to the CMP FMP (82 FR 17387, May 11, 2017), the current OY and stock ACL (total ACL) for Atlantic king mackerel are equal to the ABC of 12,700,000 lb (5,760,623 kg). In Amendment 34, these values are revised based on the results of the SEDAR 38 Update (2020) and the revised MRIP–FES estimates, and the stock ACL and annual OY are equal to 95 percent of the ABC. The revised stock ACL is 31,160,000 lb (14,133,938 kg) for the 2022–2023 fishing year; 26,980,000 lb (12,237,922 kg) for the 2023–2024 fishing year; 24,130,000 lb (10,945,184 kg) for the 2024–2025 fishing year; 22,135,000 lb (10,040,267 kg) for the 2025–2026 fishing year; and 20,710,000 lb (9,393,898 kg) for the 2026–2027 fishing year and subsequent fishing years.

Atlantic King Mackerel Sector Allocations and ACLs

Amendment 34 and this final rule revise the Atlantic king mackerel stock ACL. The Atlantic king mackerel stock ACL is allocated at 62.9 percent to the recreational sector and 37.1 percent to the commercial sector. This allocation was established in 1985 through Amendment 1 to the CMP FMP, using the average proportion of landings for the longest time series where both recreational and commercial landings data were available (50 FR 34840, August 28, 1985). Applying this allocation to the current stock ACL for Atlantic king mackerel of 12,700,000 lb (5,760,623 kg) results in 8,000,000 lb (3,628,739 kg) to the recreational sector (recreational ACL) and 4,700,000 lb (2,131,884 kg) to the commercial sector (commercial ACL). In Amendment 34, the South Atlantic Council decided to retain the current sector allocation percentages of 62.9 percent for the recreational sector and 37.1 percent for the commercial sector, and apply this allocation to the new stock ACL, which incorporates the revised MRIP–FES estimates for recreational catch. The Council determined that this allocation would be fair and equitable to both the recreational and commercial sectors because it would allow both sectors to increase their harvest without either sector meeting or exceeding their sector ACL.

Under this final rule, the revised recreational ACLs are 19,599,640 lb (8,890,247 kg) for the 2022–2023 fishing year; 16,970,420 lb (7,697,653 kg) for the 2023–2024 fishing year; 15,177,770 lb (6,884,521 kg) for the 2024–2025 fishing year; 13,922,915 lb (6,315,328 kg) for the 2025–2026 fishing year; and 13,026,590 lb (5,908,762 kg) for the 2026–2027 fishing year and subsequent fishing years. The South Atlantic Council acknowledged that the recreational sector has not met their ACL in recent years but determined that the increase in the ACL for the recreational sector may result in positive social benefits associated with the potential for increased harvest. The recreational sector does not have an in-season accountability measure (AM) in place but does have post-season AMs to address any overages of the recreational ACL. However, based on the new MRIP–FES recreational landings, none of the revised recreational ACLs are expected to be reached.

Under this final rule, the commercial ACLs are 11,560,360 lb (5,243,691 kg) for the 2022–2023 fishing year; 10,009,580 lb (4,540,269 kg) for the 2023–2024 fishing year; 8,952,230 lb (4,060,663 kg) for the 2024–2025 fishing year; 8,212,085 lb (3,724,939 kg) for the 2025–2026 fishing year; and 7,683,410 lb (3,485,136 kg) for the 2026–2027 fishing year and subsequent fishing years. Similar to the recreational sector, the commercial sector has not met their ACL in recent years. The South Atlantic Council determined that the increase in the ACL for the commercial sector may also result in positive social benefits associated with the potential for increased harvest. The commercial sector for Atlantic king mackerel has an in-season AM in place to prevent the commercial ACL from being exceeded and a post-season AM, based on stock status, to address any overages of the commercial ACL. However, based on commercial landings for the fishing years of 2015–2016 through 2019–2020, none of the revised commercial ACLs are expected to be reached.

Atlantic King Mackerel Commercial Zone ACLs

In addition to sector allocations, the commercial sector is divided into a

northern and southern zone, with the commercial ACL further allocated between the two zones. The South Atlantic Council decided not to modify those zone allocations in Amendment 34 based on recommendations from their Mackerel Cobia Advisory Panel (AP) indicating that the current zone allocations are functioning well. The northern zone (from the New York/Connecticut/Rhode Island line to the North Carolina/South Carolina line) is allocated 23.04 percent of the commercial ACL and the southern zone (North Carolina/South Carolina line to the Miami-Dade/Monroe County, Florida, line) is allocated 76.96 percent of the commercial ACL. The northern and southern zone commercial ACLs (quotas) are revised based on the revised stock and commercial ACLs. In addition, there is an allowed incidental commercial harvest of Atlantic king mackerel by purse seine gear that is limited to 0.40 million lb (0.18 million kg) per fishing year. The current commercial sector ACL zone allocations and the purse seine allocation will not change in Amendment 34.

The current northern zone commercial ACL (quota) is 1,082,880 lb (491,186 kg). Under this final rule the commercial northern zone ACL (quota) is 2,663,507 lb (1,208,146 kg) for the 2022–2023 fishing year; 2,306,207 lb (1,046,078 kg) for the 2023–2024 fishing year; 2,062,594 lb (935,577 kg) for the 2024–2025 fishing year; 1,892,064 lb (858,226 kg) for the 2025–2026 fishing year; and 1,770,258 lb (802,976 kg) for the 2026–2027 and subsequent fishing years.

The current southern zone commercial ACL (quota) is 3,617,120 lb (1,640,698 kg). Under this final rule, the southern zone commercial ACL (quota) is 8,896,853 lb (4,035,545 kg) for the 2022–2023 fishing year; 7,703,373 lb (3,494,191 kg) for the 2023–2024 fishing year; 6,889,636 lb (3,125,086 kg) for the 2024–2025 fishing year; 6,320,021 lb (2,866,713 kg) for the 2025–2026 fishing year; and 5,913,152 lb (2,682,161 kg) for the 2026–2027 and subsequent fishing years. The revised commercial northern and southern zone ACLs for Atlantic king mackerel are all greater than the observed landings in recent years. Based on the average commercial landings from 2015–2016 through 2019–2020, future landings would be expected to continue to be less than the revised commercial zone ACLs. Thus, the revised commercial zone ACLs are not expected to constrain harvest or alter fishing activity.

Atlantic King Mackerel Commercial Southern Zone Seasonal Quotas

The commercial fishing year for Atlantic king mackerel is March through February, and the commercial ACL (quota) for the southern zone is divided between two seasons. Season 1 is March 1 through September 30, and Season 2 is October 1 through the end of February. Season 1 is allocated 60 percent of the Atlantic king mackerel commercial ACL for the southern zone and Season 2 is allocated 40 percent. The current quota for Season 1 is 2,170,272 lb (984,419 kg) and the quota for Season 2 is 1,446,848 lb (656,279 kg).

Based on the revised commercial southern zone ACLs in Amendment 34, the commercial southern zone quota for Season 1 is 5,338,112 lb (2,421,327 kg) for the 2022–2023 fishing year, 4,622,024 lb (2,096,515 kg) for the 2023–2024 fishing year; 4,133,782 lb (1,875,052 kg) for the 2024–2025 fishing year; 3,792,012 lb (1,720,028 kg) for the 2025–2026 fishing year; and 3,547,891 lb (1,609,296 kg) for the 2026–2027 fishing year and subsequent fishing years. The commercial southern zone quota for Season 2 is 3,558,741 lb (1,614,218 kg) for the 2022–2023 fishing year; 3,081,349 lb (1,397,676 kg) for the 2023–2024 fishing year; 2,755,854 lb (1,250,034 kg) for the 2024–2025 fishing year; 2,528,008 lb (1,146,685 kg) for the 2025–2026 fishing year; and 2,365,261 lb (1,072,864 kg) for the 2026–2027 fishing year and subsequent fishing years. The revised commercial southern zone seasonal quotas for Atlantic king mackerel are all greater than the observed landings in recent years. Based on the average commercial landings from 2015–2016 through 2019–2020, landings are expected to continue to be less than the revised commercial southern zone seasonal quotas. Thus, the revised southern zone seasonal quotas are not expected to constrain harvest or alter fishing activity.

Atlantic King Mackerel Recreational ACTs

The Atlantic king mackerel recreational ACT was first established in Amendment 18 to the CMP FMP (76 FR 82057, December 29, 2011) using the equation recreational ACL*((1-Proportional Standard Error (PSE)) or 0.5, whichever is greater). Recreational ACTs for Atlantic king mackerel are utilized in triggering the post-season recreational AMs. For the Atlantic king mackerel post-season AM, if recreational landings exceed the ACL, and the sum of the commercial and recreational landings exceed the stock ACL, a reduced bag limit would be implemented the following fishing year by the amount necessary to ensure the recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL. Additionally, if the sum of the commercial and recreational landings exceeds the stock ACL and Atlantic king mackerel are overfished, the recreational ACL and ACT may be reduced for the following year by the amount of any recreational sector overage in the prior fishing year. Because the post-season recreational AMs have not been triggered in the past, and the SEDAR 38 Update (2020) indicates that the Atlantic king mackerel is not overfished, sector ACLs and the recreational ACT can be increased without having negative effects on the sustainability of the stock and are not expected to trigger post-season recreational AMs. In Amendment 18 and past CMP amendments, the South Atlantic Council has chosen to use the 5-year average PSE because it better represents the precision of recent catch estimates than the 3-year average. The current recreational ACT of 7,400,000 lb (3,356,584 kg) is derived from the current ABC and recreational ACL. Amendment 34 and this final rule maintain the formula for determining the recreational ACTs, but the PSE values used in the formula have been updated to reflect the revised recreational landings that are based on the MRIP's newer FES method, and the revised stock ACL and recreational ACL. The 5-year average PSE for the recreational data was 0.137. Using the current formula to calculate the recreational ACT, the resulting recreational ACT will be equal to the recreational ACL multiplied by (1–0.137), or 0.863, setting the recreational ACT at 86.3 percent of the recreational ACL.

Based on the revised stock and recreational ACLs in Amendment 34, the recreational ACT is 16,914,489 lb (7,672,283 kg) for the 2022–2023 fishing year; 14,645,472 lb (6,643,074 kg) for the 2023–2024 fishing year; 13,098,416 lb (5,941,342 kg) for the 2024–2025 fishing year; 12,015,476 lb (5,450,128 kg) for the 2025–2026 fishing year; and 11,241,947 lb (5,099,261 kg) for the 2026–2027 fishing year and subsequent fishing years.

Atlantic King Mackerel Recreational Bag and Possession Limits

This final rule revises the recreational bag and possession limits in the EEZ off the east coast of Florida. The current recreational daily bag limit for Atlantic king mackerel in both Federal and state waters off the east coast of Florida is

two fish per person. However, the recreational daily bag limit is three fish per person in the rest of the Gulf of Mexico (Gulf), South Atlantic, and Mid-Atlantic Federal waters. Fishermen and Mackerel Cobia AP members requested that the Councils increase the bag limit for Federal waters off of the Florida east coast to three fish per person, to match the bag limit within the rest of the management area in Federal waters. Increasing the bag limit in Federal waters off the east coast of Florida will allow recreational fishermen throughout the South Atlantic Council's management jurisdiction the opportunity to harvest the same amount of Atlantic king mackerel. Additionally, the recreational sector has not been reaching their ACL, and the South Atlantic Council anticipates that an increased recreational ACL combined with an increased bag limit will help increase harvest.

Recreational Atlantic King Mackerel and Atlantic Spanish Mackerel Landing Fish Intact

Currently, Atlantic king mackerel and Atlantic Spanish mackerel recreational fishermen must land recreationally harvested fish with the head and fins intact. As described at 50 CFR 622.381(b), commercial fisherman are allowed to possess and land Atlantic king mackerel and Atlantic Spanish mackerel without the head and fins intact (cut-off or damaged), provided the remaining portion of the fish complies with the minimum size limit. The commercial provision for cut-off fish was implemented through Amendment 9 to the CMP FMP (65 FR 16336, March 28, 2000) because of increasing interactions with sharks or barracudas resulting in Atlantic king mackerel and Atlantic Spanish mackerel having their tails bitten off before they could be landed. In response to similar concerns from the recreational sector about interactions with sharks or barracudas resulting in Atlantic king mackerel and Atlantic Spanish mackerel having their tails bitten off before they could be landed, the Councils decided to revise the landing fish intact requirements in Amendment 34. The Councils determined that allowing possession of damaged Atlantic king mackerel or Atlantic Spanish mackerel could be expected to minimally increase recreational harvest, while reducing the number of discarded fish.

This final rule allows cut-off (damaged) Atlantic king mackerel and Atlantic Spanish mackerel caught under the recreational bag limit and that comply with the minimum size limits, to be possessed, and offloaded ashore. Additionally, this final rule revises the definition of ''damaged fish'' to refer to king or Spanish mackerel that are damaged only through natural predation.

Management Measures in Amendment 34 Not Codified Through This Final Rule

OFL and ABC

The current OFL and ABC for Atlantic king mackerel are 15,200,000 lb (6,894,604 kg) and 12,700,000 lb (5,760,623 kg), respectively, implemented through Amendment 26 to the CMP FMP (82 FR 17387, May 11, 2017). These catch limits are based on the SEDAR 38 (2014) stock assessment that used recreational landings estimates generated using the Marine Recreational Fishery Statistics Survey (MRFSS) estimation methods and the MRIP–CHTS. As previously discussed, Amendment 34 adopts the new OFL and ABC based on the results of the SEDAR 38 Update (2020), which used MRIP–FES recreational landings estimates. Thus, the current and revised OFL and ABC are not directly comparable because they are based on different assessments and the updated assessment includes changes in the recreational catch estimates based on new MRIP–FES methodology.

In Amendment 34, the OFL is 33,900,000 lb (15,376,781 kg) for 2022–2023; 29,400,000 lb (13,335,616 kg) for 2023–2024; 26,300,000 lb (11,929,479 kg) for 2024–2025; 24,200,000 lb (10,976,935 kg) for 2025–2026; and 22,800,000 lb (10,341,906 kg) for 2026–2027 and subsequent years. The ABC is 32,800,000 lb (14,877,830 kg) for 2022–2023; 28,400,000 lb (12,882,023 kg) for 2023–2024; 25,400,000 lb (11,521,246 kg) for 2024–2025; 23,300,000 lb (10,568,702 kg) for 2025–2026; and 21,800,000 lb (9,888,314 kg) for 2026–2027 and subsequent years.

Comments and Responses

NMFS received six comments from the general public and a commercial fishing organization during the public comment period on the notice of availability and proposed rule for Amendment 34. NMFS agrees with the three comments in favor of the actions in Amendment 34 and the proposed rule. One comment was outside the scope of Amendment 34 and the proposed rule. Comments that opposed the actions contained in Amendment 34 and the proposed rule are summarized below, along with NMFS' responses.

Comment 1: The recreational bag limit should not be increased to three fish per person, and should remain at two fish per person. The current recreational bag limit provides plenty of food, as king mackerel are a large fish with a high yield so it would be a waste of the resource to allow more fish to be caught by the recreational sector.

Response: NMFS disagrees that the recreational bag limit should not be increased to three fish per person in Federal waters off the east coast of Florida. The recreational bag limit off the east coast of Florida is two fish per person, while the rest of the Gulf of Mexico, South Atlantic, and Mid-Atlantic region has a bag limit of three fish per person. Raising the bag limit in Federal waters off the east coast of Florida would create consistency in the recreational bag limit in Federal waters and provide the same opportunity for harvest throughout the entirety of the Atlantic king mackerel management area. The recreational sector has not been reaching its ACL and a higher bag limit is anticipated to help increase harvest.

In addition, increasing the recreational bag limit is expected to provide positive economic and social effects without substantial effects on the stock. The most recent stock assessment, SEDAR 38 Update (2020), indicates that Atlantic king mackerel is not overfished or undergoing overfishing, and that recreational and commercial landings and catch per unit effort all showed an increasing trend in biomass. The increased bag limit off the east coast of Florida is expected to have minor effects on overall harvest since the majority of anglers are currently only retaining one fish per person. As described in Amendment 34, recreational landings are not expected to reach the revised recreational ACL as a result of the increased bag limit. Because ACLs and AMs are in place to prevent overfishing, NMFS has determined that a bag limit increase will maintain the sustainability of the stock, reduce discards, and promote a more consistent regulatory environment for stakeholders and enforcement agencies.

Comment 2: When compared to the current commercial allocation and trip limits, the change to the recreational allocation and bag limits is unfair. Additionally, there are more regulatory restrictions on the recreational sector than there are on the commercial sector.

Response: NMFS disagrees that the recreational sector has an unfair sector allocation and retention limits when compared to the commercial sector. The current allocation percentages of 62.9 percent to the recreational sector and 37.1 percent to the commercial sector were initially set in Amendment 1 to the CMP FMP, using the average proportion

of landings for the longest time series where both commercial and recreational landings data were available, and were calculated by the MRFSS estimation methods available at the time for recreational landings estimates (50 FR 34840, August 28, 1985). The most recent stock assessment, SEDAR 38 Update (2020), includes revised recreational landings estimates that are based on the MRIP's newer FES method, which is considered more reliable and robust compared to the MRIP–CHTS or MRFSS methods. The Councils consider management of Atlantic king mackerel to be successful and determined that it would be beneficial to preserve the historic, and existing, makeup of the king mackerel portion of the CMP fishery by retaining the current allocation percentages. In accordance with National Standard 4 of the Magnuson-Stevens Act, the Councils determined that their decision to maintain the current allocations would be fair and equitable to fishermen in both the recreational and commercial sectors, would be reasonably calculated to promote conservation, and is carried out in such manner that no particular entity acquires an excessive share of such privileges. The sector ACLs in Amendment 34 were derived from applying the current sector allocations to the revised total ACL. Therefore, although the sector allocation percentages are not changing, the total ACL and sector ACLs (quotas) are increasing compared to the current values. Landings by the recreational sector have been below the recreational ACL, and the South Atlantic Council anticipates that an increased recreational ACL, combined with an increased bag limit, will increase harvest. In recent years commercial sector landings have come close to reaching the commercial ACL. However, even with maintaining current sector allocation percentages, neither sector is anticipated to have AMs triggered due to their respective ACL being met.

NMFS also disagrees that there are more regulatory restrictions on the recreational sector than the commercial sector within the Atlantic king mackerel portion of the CMP fishery. NMFS notes that the regulations for the commercial sector include, among other regulations, limited access permitting requirements, reporting requirements, a complex area and seasonal trip limit system, a minimum size limit, ACLs, and AMs. The recreational sector also has many measures in place including permitting requirements for the charter vessels and headboats, bag limits, a minimum size limit, ACLs, and AMs. NMFS and the Councils have determined that the measures for the commercial and recreational sectors are fair and equitable.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 34, the CMP FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

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

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

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

List of Subjects in 50 CFR Part 622

Annual catch limits, Atlantic, Bag and possession limits, Fisheries, Fishing, King mackerel, Spanish mackerel.

Dated: May 2, 2023.

Samuel D. Rauch, III,

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

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

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

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

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

§ 622.19 [Amended]

■ 2. In § 622.19, remove and reserve paragraph (b)(1).

■ 3. Revise § 622.381 to read as follows:

§ 622.381 Landing fish intact.

(a) *Intact fish requirement.* Cobia in or from the Gulf and in the South Atlantic EEZ south of a line extending due east from the Florida/Georgia border, and king mackerel and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel and Spanish mackerel in paragraph (b) of this section, must be maintained with head and fins intact. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.

(b) *Damaged king or Spanish mackerel.* (1) *Commercial.* Damaged king or Spanish mackerel in the Gulf, Mid-Atlantic, and South Atlantic EEZ that comply with the minimum size limits in § 622.380(b) and (c), respectively, and the trip limits in § 622.385(a) and (b), respectively, may be possessed in the Gulf, Mid-Atlantic, or South Atlantic EEZ on, and offloaded ashore from, a vessel that is operating under the respective trip limits. Such damaged fish also may be sold. A maximum of five additional damaged king mackerel, not subject to the size limits or trip limits, may be possessed or offloaded ashore but may not be sold or purchased and are not counted against the trip limit. For the purposes of this paragraph (b)(1), damaged fish, refers to king or Spanish mackerel that are damaged only through natural predation.

(2) *Recreational.* Damaged king or Spanish mackerel in the Mid-Atlantic and South Atlantic EEZ that comply with the minimum size limits § 622.380(b) and (c), respectively, and the recreational bag and possession limits in § 622.382(a), may be possessed in the Mid-Atlantic or South Atlantic EEZ on, and offloaded ashore from, a vessel that is operating under the respective bag and possession limits. For the purposes of this paragraph (b)(2), damaged fish, refers to king or Spanish mackerel that are damaged only through natural predation.

■ 4. In § 622.382, revise paragraph (a)(1)(i) to read as follows:

§ 622.382 Bag and possession limits.

* * * * *

(a) * * *

(1) * * *

(i) Atlantic migratory group king mackerel—3.

* * * * *

■ 5. In § 622.384, revise paragraph (b)(2) introductory text, paragraphs (b)(2)(i) and (ii) to read as follows:

§ 622.384 Quotas.

* * * * *

(b) * * *

(2) *Atlantic migratory group.* The Atlantic migratory group is divided into northern and southern zones. The descriptions of the zones are specified in § 622.369(a). Quotas for the northern and southern zones are as follows:

(i) *Northern zone.* The quota is 2,663,507 lb (1,208,146 kg) for the 2022–2023 fishing year, 2,306,207 lb (1,046,078 kg) for the 2023–2024 fishing year, 2,062,594 lb (935,577 kg) for the 2024–2025 fishing year, 1,892,064 lb (858,226 kg) for the 2025–2026 fishing year, and 1,770,258 lb (802,976 kg) for the 2026–2027 and subsequent fishing years. No more than 0.40 million lb (0.18 million kg) may be harvested by purse seine gear.

(ii) *Southern zone.* The quota is 8,896,853 lb (4,035,545 kg) for the 2022–2023 fishing year, 7,703,373 lb (3,494,191 kg) for the 2023–2024 fishing year, 6,889,636 lb (3,125,086 kg) for the 2024–2025 fishing year, 6,320,021 lb (2,866,713 kg) for the 2025–2026 fishing year, and 5,913,152 lb (2,682,161 kg) for the 2026–2027 and subsequent fishing years.

(A) For the period March 1 through September 30, each year, the seasonal quota is 5,338,112 lb (2,421,327 kg) for the 2022–2023 fishing year, 4,622,024 lb (2,096,515 kg) for the 2023–2024 fishing year, 4,133,782 lb (1,875,052 kg) for the 2024–2025 fishing year, 3,792,012 lb (1,720,028 kg) for the 2025–2026 fishing year, and 3,547,891 lb (1,609,296 kg) for the 2026–2027 fishing year and subsequent fishing years.

(B) For the period October 1 through the end of February each year, the seasonal quota is 3,558,741 lb (1,614,218 kg) for the 2022–2023 fishing year, 3,081,349 lb (1,397,676 kg) for the 2023–2024 fishing year, 2,755,854 lb (1,250,034 kg) for the 2024–2025 fishing year, 2,528,008 lb (1,146,685 kg) for the 2025–2026 fishing year, and 2,365,261 lb (1,072,864 kg) for the 2026–2027 fishing year and subsequent fishing years.

(C) Any unused portion of the quota specified in paragraph (b)(2)(ii)(A) of this section will be added to the quota specified in paragraph (b)(2)(ii)(B) of this section. Any unused portion of the quota specified in paragraph (b)(2)(ii)(B) of this section, including any addition of quota specified in paragraph (b)(2)(ii)(A) of this section that was unused, will become void at the end of the fishing year and will not be added to any subsequent quota.

* * * * *

■ 6. In § 622.388, revise paragraphs (b)(1)(iii), (b)(2)(i), and (b)(3) to read as follows:

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

* * * * *

(b) * * *

(1) * * *

(iii) The commercial ACL for the Atlantic migratory group of king mackerel is 11,560,360 lb (5,243,691 kg) for the 2022–2023 fishing year, 10,009,580 lb (4,540,269 kg) for the 2023–2024 fishing year, 8,952,230 lb (4,060,663 kg) for the 2024–2025 fishing year, 8,212,085 lb (3,724,939 kg) for the 2025–2026 fishing year, and 7,683,410 lb (3,485,136 kg) for the 2026–2027 fishing year and subsequent fishing years.

(2) * * *

(i) If the recreational landings exceed the recreational ACL as specified in this paragraph and the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (b)(3) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the bag limit by the amount necessary to ensure recreational landings may achieve the recreational ACT, but do not exceed the recreational ACL, in the following fishing year. The recreational ACL is 19,599,640 lb (8,890,247 kg) for the 2022–2023 fishing year, 16,970,420 lb (7,697,653 kg) for the 2023–2024 fishing year, 15,177,770 lb (6,884,521 kg) for the 2024–2025 fishing year, 13,922,915 lb (6,315,328 kg) for the 2025–2026 fishing year, and 13,026,590 lb (5,908,762 kg) for the 2026–2027 fishing year and subsequent fishing years. The recreational ACT is 16,914,489 lb (7,672,283 kg) for the 2022–2023 fishing year, 14,645,472 lb (6,643,074 kg) for the 2023–2024 fishing year, 13,098,416 million lb (5,941,342 kg) for the 2024–2025 fishing year, 12,015,476 lb (5,450,128 kg) for the 2025–2026 fishing year, and 11,241,947 lb (5,099,261 kg) for the 2026–2027 fishing year and subsequent fishing years.

* * * * *

(3) The stock ACL for Atlantic migratory group king mackerel is 31,160,000 lb (14,133,938 kg) for the 2022–2023 fishing year, 26,980,000 lb (12,237,922 kg) for the 2023–2024 fishing year, 24,130,000 lb (10,945,184 kg) for the 2024–2025 fishing year, 22,135,000 lb (10,040,267 kg) for the 2025–2026 fishing year, and 20,710,000 lb (9,393,898 kg) for the 2026–2027 fishing year and subsequent fishing years.

* * * * *

[FR Doc. 2023–09697 Filed 5–8–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 89
Tuesday, May 9, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–0673; Airspace Docket No. 23–ANE–03]

RIN 2120–AA66

Amendment of Class E Airspace; Greenville, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface for Greenville Municipal Airport, Greenville, ME, as a new instrument approach procedure has been designed for this airport. This action would also update the airport's existing extension.

DATES: Comments must be received on or before June 23, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–0673 and Airspace Docket No. 23–ANE–03 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* anytime. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

FAA Order JO 7400.11G Airspace Designations and Reporting Points and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

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 would amend Class E airspace in Greenville, ME. An airspace evaluation determined that this update is necessary to support IFR operations in the area.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only once if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of NPRMs

An electronic copy of this document may be downloaded online at *www.regulations.gov.* Recently published rulemaking documents can be accessed through the FAA's web page at *www.faa.gov/airtraffic/publications/airspaceamendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except on Federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 annually. This document proposes to amend the current version of that order, FAA Order JO 7400.11G,

Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. These updates would subsequently be published in the next update to FAA Order JO 7400.11. 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 Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface for Greenville Municipal Airport, Greenville, ME, to accommodate area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving this airport. This action would amend the existing bearing from the airport to 297° (previously 320°), as well as establishing an extension to the south of the airport to accommodate the new approach procedure. This amendment would support a new instrument procedure for this airport. Controlled airspace is necessary for the area's safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 Department of Transportation (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 proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 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 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.

* * * * *

ANE ME E5 Greenville, ME [Amended]

Greenville Municipal Airport, ME
(Lat. 45°27′46″ N, long. 69°33′06″ W)

That airspace extending upward from 700 feet above the surface within a 9.4-mile radius of Greenville Municipal Airport, within 3 miles on each side of the 297° bearing of the airport extending from the 9.4-mile radius to 17 miles northwest of the airport, and within 2 miles each side of the 117° bearing of the airport, extending from the 9.4-mile radius to 14 miles southeast of the airport.

* * * * *

Issued in College Park, Georgia, on May 2, 2023.

Lisa E. Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2023–09799 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 230424–0112]

RIN 0625–AB23

Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws

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

ACTION: Proposed rule; request for comments.

SUMMARY: Pursuant to its authority under Title VII of the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) proposes to amend its regulations to enhance, improve and strengthen its enforcement of trade remedies through the administration of antidumping duty (AD) and countervailing duty (CVD) laws. In this proposed rule, Commerce would revise many of its procedures, codify many areas of its practice, and enhance certain areas of its methodologies and analyses to address price and cost distortions in different capacities. Commerce is seeking public comment on these proposed revisions to the AD and CVD regulations.

DATES: To be assured of consideration, written comments must be received no later than July 10, 2023.

ADDRESSES: Submit electronic comments only through the Federal eRulemaking Portal at *https://www.Regulations.gov,* Docket No. ITA–2023–0003. Comments may also be submitted by mail or hand delivery/courier, addressed to Lisa W. Wang, Assistant Secretary for Enforcement and Compliance, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. An appointment must be made in advance with the Administrative Protective Order (APO)/Dockets Unit at (202) 482–4920 to submit comments in person by hand delivery or courier. All comments submitted during the comment period permitted by this document will be a matter of public record and will be available on the Federal eRulemaking Portal at *https://www.Regulations.gov*. Commerce will not accept comments accompanied by a request that part or all the material be treated as confidential because of its business proprietary nature or for any other

reason. Therefore, do not submit confidential business information or otherwise sensitive or protected information.

Any questions concerning the process for submitting comments should be submitted to Enforcement & Compliance (E&C) Communications office at *ECCommunications@trade.gov* or to Ariela Garvett, Senior Advisor, at *Ariela.Garvett@trade.gov*. Inquiries may also be made of the E&C Communications office during normal business hours at (202) 482–0063.

FOR FURTHER INFORMATION CONTACT: Scott McBride, Associate Deputy Chief Counsel, at (202) 482–6292, Ian McInerney, Attorney, at (202) 482–2327, Hendricks Valenzuela, Attorney, at (202) 482–3558, or Brishailah Brown, Attorney, at (202) 482–5051.

SUPPLEMENTARY INFORMATION:

General Background

Title VII of the Act vests Commerce with authority to administer the AD/CVD trade remedy laws. In particular, section 731 of the Act directs Commerce to impose an AD order on merchandise entering the United States when it determines that a producer or exporter is selling a class or kind of foreign merchandise into the United States at less than fair value (*i.e.,* dumping), and material injury or threat of material injury to that industry in the United States is found by the U.S. International Trade Commission (ITC). Section 701 of the Act directs Commerce to impose a CVD order when it determines that a government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise that is imported into the United States, and material injury or threat of material injury to that industry in the United States is found by the ITC.[1]

On September 20, 2021, Commerce revised its scope regulations (19 CFR 351.225) and issued new circumvention (19 CFR 351.226) and covered merchandise (19 CFR 351.227) regulations. *See Scope and Circumvention Final Rule,* 86 FR 52300 (September 20, 2021). *See also Scope and Circumvention Proposed Rule,* 85 FR 49472 (August 13, 2020) (hereinafter ''Scope and Circumvention Final Rule'' and ''Scope and Circumvention Proposed Rule'').

The revised and new regulations became effective November 4, 2021.[2] We have subsequently identified some corrections and improvements to the scope, circumvention, and covered merchandise referral regulations. On November 28, 2022, Commerce issued a proposed regulation which provided some technical amendments to those regulatory provisions.[3] This proposed rule provides additional substantive amendments to those provisions.

On November 18, 2022, Commerce issued an advanced notice of proposed rulemaking, indicating that it was considering issuing a regulation that would address the steps taken by Commerce to determine the existence of a particular market situation (PMS) that distorts the costs of production. *Determining the Existence of a Particular Market Situation That Distorts Costs of Production; Advanced Notice of Proposed Rulemaking,* 87 FR 69234 (November 18, 2022) (hereinafter ''PMS ANPR''). Commerce requested public comment for 30 days in response to three questions which it posed in that notice, and received 19 comments.

Explanation of the Proposed Rule

We are proposing several modifications to the AD and CVD regulations to clarify and bring them into conformity with our practice and procedures, as well as to enhance and strengthen other regulatory provisions to enforce the trade remedy laws more effectively. The proposed changes are summarized here and discussed in greater detail below. We invite comments on these proposed regulatory changes and clarifications, including suggestions to improve these proposed regulations.

- Modify section 104 to clarify that references, citations, and hyperlinks to most documents provided in a submission do not incorporate the underlying referenced information on to the official record. The modification also explains the exception and the documents that meet the exception to this rule. This clarification is necessary because some interested parties over time have failed to put information on the official record such as website printouts and academic literature, creating confusion and inefficiencies.
- Modify sections 225, 226, 227, 301 and 306 to update and address scope, circumvention and covered merchandise issues that have arisen since Commerce amended and created those regulations in 2021. This includes addressing merchandise commercially produced, but not yet imported; the acceptance of pre-initiation submissions in response to scope applications and circumvention inquiry requests; the revision of time limits if Commerce seeks clarification on a scope application or circumvention inquiry request; clarification of when section 301 does and does not apply to such proceedings; a clarification of when ''continue to suspend'' language applies to entries pre-initiation in scope and covered merchandise proceedings; revisions to allow the sharing of information between AD and CVD segments when scope, circumvention, or covered merchandise inquiries for companion orders are conducted on the AD segment; providing greater detail on the application of scope clarifications; and allowing for extensions for initiation and preliminary circumvention determinations.
- Modify section 301 to allow Commerce to place previous analysis and calculation memoranda from other segments or proceedings on the record after written arguments have been submitted without being required to allow other parties to submit new factual information in response. Interested parties may still submit arguments as to the relevance of the agency analysis and calculation memoranda, but the submission of new factual information so late in the segment created unreasonable administrative burdens on the agency.
- Modify section 301 to address notices of subsequent authority submitted on the record and allow for the filing of responsive arguments and factual information.
- Modify section 308 to include the CVD adverse facts available hierarchy.
- Modify sections 408 and 511, and create new section 529, to address foreign government inactions that benefit foreign producers. This includes codifying Commerce's practice of determining that countervailable subsidies are conferred by certain unpaid or deferred fees, fines, and penalties. It also addresses the consideration of evidence on the record of weak, ineffective, or nonexistent property, intellectual property, human rights, labor, and environmental

[1] A countervailable subsidy is further defined under section 771(5)(B) of the Act as existing when: a government or any public entity within the territory of a country provides a financial contribution; provides any form of income or price support; or makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments; and a benefit is thereby conferred. To be countervailable, a subsidy must be specific within the meaning of section 771(5A) of the Act.

[2] *Id.*

[3] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings: Proposed Rule,* 87 FR 72916, 72921–27 (November 28, 2022). A final rule to those regulatory proposals is forthcoming.

protections and the impact that the lack of such protections has on the prices and costs of products in selecting surrogate values and benchmarks.

• Create a new section 416 to address a determination of the existence of a PMS, including a PMS such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade. This regulation takes into consideration the comments received from the public in response to the *PMS ANPR* and addresses the elements that Commerce may consider in determining if a market situation exists that likely distorts the cost of production and if the market situation is particular. It also provides 12 examples of scenarios in which Commerce might determine the existence of a PMS which distorts the cost of production and indicates that allegations of a PMS must be accompanied on the record by relevant information reasonably available to the interested party making the allegation.

• Modify sections 503, 505, 507, 508, 509, 520, and 525 to provide guidance to the public by incorporating our long-standing practices into the regulations. This includes addressing subsidies provided to support compliance with government-imposed mandates; treatment of outstanding loans as grants after three years of no payments of interest and principal; the use of an outside investor standard in determining the benefit of an equity infusion; the allocation period in measuring the benefit of an equity infusion; the allocation period in measuring the benefit of debt forgiveness; the treatment of certain income tax subsidy benefits as not tied with respect to particular markets or products; the use of a five-year period to determine if the premium rates charged on export insurance are inadequate to cover long-term operating costs and losses; and the use of alternative methodologies in attributing export subsidies and domestic subsidies to certain products exported and/or sold by a firm.

1. References, Citations, and Hyperlinks Made in a Submission Do Not Place the Referenced Underlying Information on the Official Record—§ 351.104(a)(1)

Section 516A(b)(2) of the Act provides a definition of Commerce's administrative record in AD/CVD proceedings and § 351.104(a)(1) describes in greater detail the information contained on the official record. Nonetheless, interested parties sometimes make the mistake of merely citing sources, or placing Uniform Resource Locator (URL) website information, or hyperlinks, in their submissions to Commerce, and then later presuming the information contained at the source documents is considered part of the record. This becomes a problem, for example, when parties submit their case briefs and rebuttal briefs on the record, pursuant to § 351.309, and quote from, or otherwise rely on, information or data derived from the cited sources that were never submitted on the official record. Commerce at that point has one of two choices—either reject the submissions as containing untimely filed new factual information or inquire further with the parties to put additional information on the record. In light of the statutory and regulatory time limits by which Commerce must abide, gathering further information is often not a reasonable or viable option, particularly at such a late stage in the segment of the proceeding.

Therefore, Commerce is proposing that additional language be added to § 351.104(a)(1) to reflect its long-standing interpretation of the official record; expressly articulating that for the vast majority of source materials, mere citations and references, including hyperlinks and website URLs, do not incorporate the information located at the cited sources onto the official record. This is true whether the citation is to sources such as textbooks, academic or economic studies, foreign laws, newspaper articles, or websites of foreign governments, businesses, or organizations.[4] If an interested party wishes to submit information on the record, it must submit the actual source material in a timely manner, and not merely share internet links or citations to those sources in its questionnaire responses, submissions, briefs, or rebuttal briefs. Placement of such information on the record is the responsibility of the interested party and it is not Commerce's obligation to search for the information referenced by the links and citations. Commerce does not have the resources or time to independently gather such external data or information.

Notably, there are a few limited exceptions to this understanding of the official record which Commerce adopted through its practice over the years. Commerce therefore also proposes identifying in the regulation those exceptions, all of which relate to certain publicly available sources. Commerce expects that, by including such information in the regulation, interested parties will better understand those limited exceptions, and may rely on those specified references and citations in making their arguments in those specific circumstances.

Specifically, parties may cite U.S. statutory and regulatory language, as well as publicly available U.S. court decisions and orders, without submitting copies of those legal sources on the record. Likewise, copies of certain U.S. legislative history sources, such as the Statement of Administrative Action,[5] and specific World Trade Organization international trade agreements identified in the regulation need not be submitted on the official record for Commerce to consider arguments pertaining to those sources. Finally, Commerce and the ITC publish determinations in the **Federal Register**, as well as public decision memoranda/reports which are adopted by those **Federal Register** notices, and copies of those determinations, memoranda, and reports need not be submitted on the record.[6]

To be clear, the Commerce-authored ''Issues and Decision Memoranda''

[4] Information on websites can, and frequently does, change. At the time a weblink is placed on the record, the website might contain certain information, but later in the segment of the proceeding, that website and the information contained on it might change. We therefore emphasize that if interested parties wish to submit on the official record information derived from a website, they must make copies of each page and submit those copies on the record in a timely fashion.

[5] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994) (SAA).

[6] Commerce's preliminary and final issues and decision memoranda and ITC preliminary and final injury reports are unique among documents that are unpublished in the **Federal Register** but can be incorporated on the record by citation. For example, ''Final Results of Remand Redetermination,'' issued pursuant to court orders or under direction by a United States Mexico Canada Agreement dispute panel, preliminary and final section 129 determinations, issued pursuant to 19 U.S.C. 3538 (section 129 of the Uruguay Round Agreements Act) and the direction of the United States Trade Representative, and scope rulings, issued pursuant to § 351.225, are not published in the **Federal Register**. Accordingly, each of those Commerce determinations cannot be incorporated onto the record of another segment merely by citation under the § 351.104(a)(1) exception. Thus, remand redeterminations, section 129 determinations, and scope rulings must each be submitted on the official record of another segment or proceeding for Commerce to consider the contents and analysis of those determinations in that segment or proceeding. On the other hand, for example, if *only* the outcome of a section 129 determination is being referenced, (and not the parties' arguments, the facts, or Commerce's analysis), then the notice which Commerce publishes in the **Federal Register** at the very end of the section 129 segment that summarizes the ultimate results of the section 129 process can be cited for that limited purpose, because that conclusion has been published in the **Federal Register**. *See, e.g., Implementation of Determinations Pursuant to Section 129 of the Uruguay Round Agreements Act,* 81 FR 37180 (June 9, 2018).

adopted by **Federal Register** notices are not the separate calculation and analysis memoranda that Commerce frequently uses in its proceedings. Calculation and analysis memoranda, which include, for example, initiation checklists, respondent selection memoranda, new subsidy allegation memoranda, and affiliation/collapsing memoranda from other proceedings or other segments of the same proceeding, are not on the record before Commerce unless they have been placed on the record by Commerce or one of the interested parties to the proceeding.

In sum, the language being proposed to include in § 351.104(a)(1) explains that if parties cite sources without submitting the source data or information on the record, unless Commerce or another interested party placed the information on the record or the information meets one of the articulated exceptions, Commerce will not consider the underlying information to be part of the official record and will not consider that underlying information in its analysis.

2. Conducting Scope Inquiries of Merchandise Not Yet Imported, But Commercially Produced and Sold—§ 351.225(c)(1)

It is Commerce's practice to allow parties, including importers of non-subject merchandise, to request a scope ruling, even if the product at issue is not yet imported, provided the product is in actual production. This language was codified in § 351.225(c)(1) (''An interested party may submit a scope ruling application requesting that the Secretary conduct a scope inquiry to determine whether a product, *which is or has been in actual production by the time of the filing of the application,* is covered by the scope of an order.'') (emphasis added). The benefit of allowing a scope ruling in that situation are twofold. First, it does not require an exporter and importer to expend the time and resources to ship and import its commercially traded merchandise to the United States for the sole purpose of getting a scope ruling. Second, it does not require Commerce to expend the time and resources to make a scope determination on a product that the company may decide to never export to the United States again, depending on the outcome of the agency's scope ruling.

The phrase ''actual production'' is not defined in the regulation. However, under Commerce's practice, for a product to be ''actually'' produced, it must be commercially manufactured and sold, *i.e.,* produced for sale in a market and then subsequently purchased.[7] That market could be the home market or a third country market, but in either case, it must be produced for sale and then sold in that market. In other words, the agency will not consider samples, prototypes, or mere models of merchandise to be ''actually in production.'' The policy reasons for that interpretation are clear: Commerce is under no obligation to issue a scope ruling for a product that may never be commercially produced, sold, or exported, and it would be unreasonable for the agency to devote time and resources to reviewing a product that is neither traded domestically nor internationally. As Commerce acknowledged in the Preamble to the *Scope and Circumvention Final Rule,* ''Commerce sometimes conducts scope inquiries on merchandise that is already in commercial production but has not yet been exported to the United States. . . .''[8]

For consistency with Commerce's practice and because it would not be sensible to expend agency resources on a product which may never realistically enter the commerce of United States and become ''subject'' to an AD or CVD order, Commerce proposes certain revisions to § 351.225(c)(1). Commerce proposes adding language to § 351.225(c)(1) that indicates that if a product has not been imported into the United States, the scope applicant must provide additional evidence that the product was actually produced and sold. In addition, Commerce proposes adding a new provision, paragraph (c)(2)(x), to § 351.225, to direct an applicant to provide such evidence under this scenario.

3. Allowing Pre-Initiation Submissions in Response to Scope Ruling Applications and Circumvention Inquiry Requests—§§ 351.225(c)(3) and 351.226(c)(3)

The regulations under §§ 351.225, 351.226, and 351.227 currently do not provide guidance or procedures for pre-initiation submissions from interested parties other than the applicant in a scope inquiry and the requester in a circumvention inquiry. We indicated in the Preamble to the *Scope and Circumvention Final Rule* that we anticipated that after a scope ruling application has been submitted to the record, parties will have the opportunity to challenge the adequacy of the application before a decision is made to initiate or not initiate.[9] Subsequent to the revision of § 351.225 and creation of § 351.226, we discovered that the lack of guidance in the regulations with respect to such submissions has created some confusion. Accordingly, we have determined to revise the regulations in §§ 351.225(c)(3) and 351.226(c)(3) to provide interested parties, other than the applicant or requestor, a clear opportunity to submit comments to Commerce on the adequacy of the application or request, within 10 days after the submission of the application or request.

Notably, the factors we consider in initiating a scope inquiry differ from a circumvention inquiry, in that we normally do not look at, for example, patterns of trade in most scope cases in determining whether to initiate a scope ruling. Because a circumvention inquiry often requires Commerce to review such additional information, we further propose that for circumvention inquiries, specifically, interested parties also be permitted to submit new factual information regarding the adequacy of the circumvention inquiry request with their comments, and then allow the requestor five days after the submission of the new factual information, to have an opportunity to submit comments and factual information to rebut, clarify, or correct the interested parties' new factual information. It is our expectation that, by allowing for both comments and new factual information in this manner, the record will be even more detailed for Commerce in determining whether the criteria needed to initiate a circumvention inquiry are satisfied.

[7] *See, e.g.,* Commerce's Letters, Second Unacuna Scope Inquiry Rejection Letter, dated December 23, 2014 (ACCESS barcode: 3249258–01) (''{Commerce} does not consider prototypes or models of merchandise to be 'actually in production.' For merchandise to be 'actually in production,' it has to be commercially produced—in other words, produced for sale in a market. That market could be the home market or a third country market, but in either case, it has to be produced for sale''); and ''RNG International, Inc.'s Scope Inquiry: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China,'' dated March 15, 2022 (ACCESS barcode: 4221972–01) (''Commerce does not consider prototypes or models of merchandise to be 'in actual production.' For merchandise to be 'in actual production,' it must be commercially produced—in other words, produced for sale in a market. That market could be the home market or a third country market, but in either case, it must be produced for sale'').

[8] *See Scope and Circumvention Final Rule,* 86 FR 52314.

[9] *Id.,* 86 FR 52316 (explaining that parties will ''have an opportunity to file arguments with Commerce before initiation'').

4. Time Limit Revisions If Commerce Seeks Clarification on the Application or Request—§§ 351.225(d)(1) Introductory Text and (d)(1)(ii) and (iii), as Well as §§ 351.226(d)(1) Introductory Text and (d)(1)(ii) and (iii)

The regulations currently allow for Commerce only to reject or accept a scope application or circumvention inquiry request. However, there are instances in which the application or request may be generally acceptable, but Commerce still needs clarification on one or more aspects of the submission. We propose revising and adding provisions to both the scope and circumvention regulations to revise the time limitation for initiation if Commerce seeks clarification from the applicant or requestor and the applicant or requestor, in turn, provides responses to Commerce's requests for further information. Specifically, we would revise §§ 351.225(d)(1) introductory text and 351.226(d)(1)(ii) to allow for Commerce's decision to initiate or not initiate an inquiry to be made within 30 days after the submission of the applicant's or requestor's timely response to Commerce's questions. Under the current regulations, if Commerce does not reject a scope ruling application or initiate a scope inquiry within 31 days after the filing of the application, the application will be deemed accepted and the scope inquiry will be deemed initiated.[10] Likewise, a new § 351.225(d)(1)(iii) would be added to the scope regulations to allow for deemed initiation of a scope inquiry 31 days after the applicant's timely response to Commerce's questions were submitted with the agency. Further, a new § 351.226(d)(1)(iii) would be added to the circumvention regulations to clarify that Commerce will make its decision to initiate or not initiate a circumvention inquiry after it receives the requestor's timely response to Commerce's questions.

It is Commerce's expectation that such a proposed change to the regulations, basing the initiation deadline on timely responses to the questions issued by Commerce seeking clarification of the application or circumvention inquiry request, instead of the date of submission of the application or request itself, will ensure a fair and more efficient process.

5. Clarifying What Provisions Under §§ 351.225, 351.226, and 351.227 Are the ''Otherwise Specified'' Procedures in Which §§ 351.301 Through 351.308 and 351.312 Through 351.313 Do Not Apply—§§ 351.225(f), 351.226(f), and 351.227(d)

Current §§ 351.301 through 351.308 and 351.312 and 351.313, generally, outline the procedures for the submission and use of factual information in Commerce proceedings. In particular, § 351.301 establishes the time limits for submissions of factual information. When Commerce issued its scope, circumvention, and covered merchandise regulations in the *Scope and Circumvention Final Rule,* Commerce included several new timing provisions that were intended to supplant certain provisions of § 351.301. Commerce intended to specify separate and distinct time limits for scope inquiries, circumvention inquiries, and covered merchandise referrals. Specifically, §§ 351.225, 351.226, and 351.227 all contain the same clause, ''{u}nless otherwise specified, the procedures as described in subpart C of this part (§§ 351.301 through 351.308 and 351.312 through 351.313) apply to this section.'' [11] Within §§ 351.225, 351.226, and 351.227, other time limitations have been specified for the submission of questionnaire responses and other documents. However, Commerce did not, in those provisions, specifically indicate where § 351.301 did not apply. Accordingly, we propose clarifying this matter in the regulations.

Specifically, Commerce proposes adding a new clause to §§ 351.225(f), 351.226(f), and 351.227(d) that expressly states that the time limits in these regulations are distinct and separate from the procedures outlined in § 351.301. For example: ''{t}he procedures as described in subpart C of this part (§§ 351.301 through 351.308 and 351.312 through 351.313) do not apply to this paragraph, but are unique to scope ruling inquiries.'' These changes will clarify which time limitations apply across scope inquiries, circumvention inquiries, and scope clarifications, respectively.[12]

6. Clarifying Continued Suspension of Liquidation With Respect to Certain Segments of Commerce's Proceedings—§§ 351.225(l)(1) and 351.227(l)(1)

In scope and covered merchandise inquiries, if Commerce has issued a final determination in an administrative review, pursuant to § 351.212(b), or a rescission notice, pursuant to § 351.213(d), or automatic liquidation instructions are forthcoming, in accordance with § 351.212(c), and around the same time period Commerce determines to initiate a scope inquiry or covered merchandise inquiry, the current regulations do not indicate whether, upon initiation of the scope or covered merchandise segment of the proceeding, the suspension of liquidation of entries covered by the final determination, automatic liquidation instructions, or rescissions should be ''continued'' as that term is used in §§ 351.225(l)(1) and 351.227(l)(1). This issue arises if U.S. Customs and Border Protection (CBP) has not yet liquidated those entries, in accordance with 19 CFR part 159, when Commerce issues its suspension instructions under §§ 351.225(l)(1) and 351.227(l)(1).[13] We, therefore, propose modifications to those two provisions to explain that suspension of such entries should continue, as well as suspension of any other entries suspended by CBP in administering the AD and CVD laws and not yet liquidated, pending the completion of the scope or covered merchandise inquiries.

7. Record Issues in Scope, Circumvention, and Covered Merchandise Inquiries for Companion AD and CVD Orders—§ 351.104(a); § 351.306(b); §§ 351.225(m)(2), 351.226(m)(2), and 351.227(m)(2)

Current paragraphs (m)(2) of §§ 351.225, 351.226, and 351.227

[10] *See* § 351.225(d)(1)(ii).

[11] *See* §§ 351.225(a), 351.226(a), and 351.227(a).

[12] Section 351.302(b) allows Commerce to extend ''any time limit,'' ''unless expressly precluded by statute,'' for ''good cause,'' and Commerce is not intending to modify that authority through this revision to its regulations. ''Good cause,'' is not a defined set of circumstances, and is determined on a case-by-case basis. We note that in the *Scope and Circumvention Proposed Rule,* 85 FR 49496, proposed § 351.225(e)(1) stated that ''Situations in which good cause has been demonstrated may include, but are not limited to'' two examples, while in the final version of § 351.225(e)(2), it stated that ''Situations in which good cause has been demonstrated may include,'' followed by the same examples, with no explanation of why the ''but are not limited to'' distinguishing language was removed. *See Scope and Circumvention Final Rule,* 86 FR 52375. To be clear, it was not Commerce's intention by adjusting the language between the *Proposed* and *Final Scope and Circumvention Rules* to suggest that the two examples of ''good cause'' found in § 351.225(e)(2) are exhaustive, which is evidenced by the continued use of the permissive phrase ''may include.'' It continues to be Commerce's understanding that any time the ''good cause'' standard appears in the AD and CVD regulations, a determination of ''good cause'' is left to the discretion of Commerce, based on the facts before it in a given case.

[13] At this time, Commerce does not believe a similar adjustment to § 351.226(l)(1) is appropriate because the nature of a circumvention inquiry is such that merchandise which would have been covered by the aforementioned assessment instructions would not meet the description of non-subject merchandise that is allegedly circumventing an AD or CVD order.

generally provide that if there are companion AD and CVD orders covering the same merchandise from the same country of origin, the application/request/referral pertaining to both orders must be placed only on the record of the AD proceeding. Further, if Commerce initiates an inquiry, it will conduct a single inquiry with respect to the product at issue for both orders only on the record of the AD proceeding. Once Commerce issues a final scope ruling/circumvention determination/covered merchandise determination on the record of the AD proceeding, Commerce will include a copy of that final determination on the record of the CVD proceeding. The purpose of these regulations was to address the issue of differing administrative records related to the same scope/circumvention/covered merchandise determination.[14] However, since the regulations were issued, Commerce identified an issue which must be addressed.

Under Commerce's current practice, APO authorized representatives may use business proprietary information (BPI) from a previous segment and submit that information in certain subsequent segments within the same proceeding.[15] However, parties may not use BPI from a previous AD segment in a subsequent CVD proceeding, nor BPI from a previous CVD segment in a subsequent AD proceeding.[16] Therefore, it would not be possible for a party to submit relevant BPI from a previous CVD segment on the AD record that serves as the official record for the single inquiry covering both AD and CVD companion orders. This may inhibit interested parties from providing (and relying on) another party's BPI in support of their positions in a scope, circumvention, or covered merchandise inquiry. Likewise, there might be information which is on the record of the AD segment during the scope, circumvention, or covered merchandise inquiry which might prove to be helpful in future segments under the CVD order, but the current prohibition against using BPI from other proceedings would prevent Commerce from using and relying on such data.

To address these concerns, Commerce proposes amending § 351.306(b) to permit cross-order sharing of BPI between companion orders when paragraphs (m)(2) of § 351.225, § 351.226, or § 351.227 are invoked. Such language would allow for certain relevant BPI from a previous CVD scope, circumvention, or covered merchandise inquiry segment to be placed on the AD record of the scope, circumvention, or covered merchandise inquiry that is covering both companion orders under § 351.225(m)(2), § 351.226(m)(2), or § 351.227(m)(2). Likewise, it would also allow BPI from the AD record during a scope, circumvention, or covered merchandise inquiry to be submitted in subsequent CVD segments.

In addition, to help further clarify that the AD segment record is intended to be the official record of the scope, circumvention, or covered merchandise inquiry in the event of litigation, we propose adding new language to § 351.104(a) which explains that the record of the AD segment will normally be the official record for scope, circumvention, and covered merchandise segments covering companion AD and CVD orders.

For clarification of the information under §§ 351.225(m) and 351.226(m) that should be specifically on the AD record and CVD records, when there are companion orders affected by a scope or circumvention determination, we are proposing a revision of the opening sentence in paragraph (m)(2) of both provisions that states that scope ruling applications and circumvention inquiry requests are to be submitted on the records of both proceedings, but once they are received, Commerce will notify interested parties that all subsequent submissions must be submitted only on the record of the AD proceeding. This allows for an opening of the CVD segment, but then makes it clear that interested parties must subsequently file all their submissions on the AD segment, and not on the record of the CVD segment, for the remainder of the segment of the proceeding.

Commerce also proposes removing extraneous language about contacting CBP that was included in § 351.227(m) that was not included in §§ 351.225(m) and 351.226(m) and is unnecessary.

Finally, Commerce proposes adding at the end of §§ 351.225(m)(2), 351.226(m)(2), and 351.227(m)(2) language that says that in addition to a final scope ruling, circumvention determination, or covered merchandise determination being placed on the CVD record, a copy of the preliminary scope ruling, circumvention determination, or covered merchandise determination, if applicable, as well as ''all relevant instructions to the Customs Service,'' will also be placed on the CVD record at that time.

8. Providing Greater Detail on Scope Clarifications, Including Its Ability To Address the Governmental Exception Provision of Section 771(20)(B) of the Act—§ 351.225(q)

Historically, Commerce has used scope clarifications in investigations and after an order is issued in different ways, as we explained in the Preambles to both the *Scope and Circumvention Proposed Rule* and *Scope and Circumvention Final Rule*.[17] A scope clarification is not intended to be a scope ruling, by which Commerce applies an analysis under § 351.225(k) to determine if something is covered by an AD or CVD order. Instead, scope clarifications are means by which Commerce otherwise addresses other scope-related items in any segment of the proceeding. For example, current § 351.225(q) provides an example in which Commerce, based on its previous scope determinations and rulings, may provide an interpretation of specific language in the scope of an order and reflect that interpretation in the form of an interpretive footnote to the scope when the scope is published or set forth in instructions to CBP.

Although this is one means by which Commerce may use a scope clarification post-order, there are other instances in which Commerce has been faced with scope-related questions and Commerce has determined to address those questions in the form of a scope clarification. Accordingly, Commerce proposes modifying this provision to extend its description to be more comprehensive and illustrative.

For example, section 771(20)(B) of the Act states that merchandise which is subject to the scope of an order (and therefore a scope inquiry and scope ruling would be unnecessary) may be treated as not subject to the imposition of ADs or CVDs. In sum, it creates an exception to the imposition of ADs or CVDs for merchandise that is imported by, or for the use of, the U.S. Department of Defense. To qualify for this exception the subject merchandise must: (1) be acquired in accordance with a memorandum of understanding between the U.S. Department of Defense and a country; and (2) have no substantial nonmilitary use.[18] Commerce has addressed this provision infrequently, and only in the context of ongoing administrative reviews. Still, a scope clarification, by its nature, would be the appropriate means by which

[14] *See Scope and Circumvention Proposed Rule,* 85 FR 49484 (''By limiting the scope inquiry only to the record of one proceeding, the chances of incomplete records, or confusing records being filed with courts on appeal, should be lessened'').

[15] *See Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order,* 63 FR 24391, 24398 (May 4, 1998).

[16] *Id.,* 63 FR 24399.

[17] *See Scope and Circumvention Proposed Rule,* 85 FR 49480–81, n. 51; and *Scope and Circumvention Final Rule,* 86 FR 52336–37.

[18] *See* section 771(20)(B) of the Act.

Commerce could address the U.S. Department of Defense exception.

In another example, at times, Harmonized Tariff Schedule (HTS) classifications have been updated and those updates have removed or revised HTS classification subheadings that were set forth in an AD or CVD order.[19] For a variety of reasons, Commerce might find it appropriate to clarify that an existing scope, which identified HTS classifications that no longer exist, applies to the updated and revised HTS classifications. One means to do this would be through a scope clarification.

Likewise, the written description of the scope may include references to various industry standards which may be revised or updated at some point. Again, Commerce could issue a scope clarification under § 351.225(q) to clarify which standards apply after such revisions or updates.

A scope clarification can also assist in clarifying the country of origin of a product. For example, if Commerce previously issued a country of origin determination (in an investigation or review), in which it described, as part of its analysis, that that the ''essential characteristics were imparted'' in producing the subject merchandise at one stage of the production of the subject merchandise under § 351.225(j)(2), and that the country of origin was established at that stage, it is possible that in a subsequent segment of the proceeding the record might reflect that parties did some processing to the merchandise immediately before, in, or after that generally-described stage in a third country, but the exact line of where the identified production stage begins and ends is under debate. Under such a scenario, if there is a question from the parties or CBP as to whether that processing was understood to be included in, or separate from, the described ''essential characteristics'' stage, Commerce could clarify the issue in a scope clarification. In other words, rather than conducting a new country of origin analysis, under such a scenario Commerce would be interpreting and clarifying its previous country of origin determination. Commerce could then issue a memo addressing this issue and issue instructions to CBP reflecting the results of its scope clarification.

Notably, scope clarifications can take different forms, such as the aforementioned footnote to the scope, a memorandum in the context of an ongoing segment of the proceeding, such as an administrative review, or even in a standalone ''Notice of Scope Clarification'' that would be published in the **Federal Register**. Moreover, these examples are not exhaustive, but we do expect that it would be helpful to identify them in our proposed regulations to provide greater clarity and certainty in this area of the AD and CVD laws.

Accordingly, Commerce proposes changes to § 351.225(q) that explain that scope clarifications can serve a broader purpose than the purpose narrowly articulated in the *Scope and Circumvention Final Rule.*

9. Extensions of Initiation and Preliminary Determination Time Limits—§ 351.226(d)(1) and (e)(1)

After issuing § 351.226 in the *Scope and Circumvention Final Rule,* Commerce experienced certain timing difficulties with respect to the initiation of circumvention inquiries and issuing of preliminary circumvention determinations, under § 351.226(d)(1) and (e)(1), in some of its proceedings.

For initiations specifically, § 351.226(d)(1) allows Commerce a maximum of only 45 days, fully extended, in which to determine to initiate or not initiate a circumvention inquiry. However, given the complexity of certain cases and certain circumvention requests and the need to consider certain factors, such as, for example, whether there are patterns of trade, increases in imports, and potential affiliations between producers and exporters with those assembling merchandise under sections 781(a)(3) and (b)(3) of the Act, 45 days has proven to be insufficient time for Commerce to consider all of the relevant information on the record in many cases. In particular, it has proven most difficult when parties submitted new factual information on the record to challenge the adequacy of a circumvention inquiry request.

As we explain above, we have concluded that it would be beneficial to allow interested parties to submit both comments and new factual information in response to a circumvention inquiry request, and to allow the requestor to respond to such submissions with further responsive factual information. In accordance with that proposed modification to the regulations, Commerce proposes amending § 351.226(d)(1) to provide for three scenarios. First, Commerce will be required to make a determination to initiate or not initiate within 30 days after the submission of the request if Commerce is able to make such a determination based on the record evidence. Second, if it is not practicable to make such a determination in 30 days, and no party has submitted new factual information on the record in response to the circumvention request, then Commerce may extend its determination by an additional 15 days—to the current maximum of 45 days after submission of the request. Third, if the 30-day deadline proves to be impractical and interested parties have submitted new factual information on the record in response to the circumvention request, then Commerce will be permitted to extend the 30-day deadline by another 30 days—to a maximum of 60 days after the submission of the request in which to make a determination to initiate or not initiate a circumvention inquiry. We expect this timeline will provide Commerce with a better opportunity to make an informed decision as to whether the standards to initiate a circumvention inquiry have been met.[20]

In addition to proposing an extension to the time limits for initiation, we also propose that the regulation be amended to allow for the extension of preliminary circumvention determinations. Section 351.226(e)(1) provides a deadline of no later than 150 days from the date of publication of the notice of initiation for the publication of the preliminary circumvention determination. Although the Act does not prohibit Commerce from extending preliminary circumvention determinations, no language was included in the regulation to expressly allow for an extension. Given the complexity of certain circumvention inquiries, we have determined that it is reasonable for Commerce to normally be able to extend the deadline for issuing a preliminary circumvention determination. Accordingly, Commerce proposes amending § 351.226(e)(1) to allow for a preliminary determination extension of up to 90 days (to provide a deadline of no later than 240 days from the date of publication of the notice of initiation) if Commerce concludes that an extension is warranted. Such a modification

[19] *See, e.g., Polyethylene Retail Carrier Bags from Indonesia, Malaysia, the People's Republic of China, Taiwan, Thailand, and the Socialist Republic of Vietnam: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 86 FR 35478 (July 6, 2021), and accompanying Issues and Decision Memorandum (IDM) at 3; *see also 53-Foot Domestic Dry Containers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value; Final Negative Determination of Critical Circumstances,* 80 FR 21203 (April 17, 2015), and accompanying IDM at 23, n. 121.

[20] We note that we also propose amending the regulation at § 351.226(d)(1)(ii) so that if Commerce issues questionnaires to the requestor seeking clarification on certain issues, the deadlines described herein will be triggered off of the submission of the timely submitted responses to Commerce's questions, and not the submission of the circumvention inquiry request.

would not alter the maximum deadline for a final circumvention determination of 365 days, set forth in § 351.226(e)(2).

10. Procedures for Commerce To Place Previous Analysis and Calculation Memoranda From Other Segments or Proceedings on the Record After Written Arguments Have Been Submitted But Before the Final Determination or Results Has Been Issued—§ 351.301(c)(4)

Pursuant to § 351.301(c)(4), Commerce may place new factual information on the record at any time, and when it does so, interested parties are permitted one opportunity to submit arguments and new factual information to ''rebut, clarify, or correct'' the factual information Commerce placed on the record, by a date set by Commerce. Throughout most of a segment of a proceeding, this regulation works as it should. However, since this regulation was issued, Commerce has on multiple occasions experienced a particular problem with this provision at the end of some of its segments, and that problem created unnecessary burdens for the agency in completing segments of its proceedings.

Specifically, in certain segments, after parties have submitted briefs and rebuttal briefs, in accordance with § 351.309, arguing that Commerce should take certain actions, Commerce has determined after consideration of those written arguments that in another proceeding, or segment of the same proceeding, it addressed the arguments now before it, in whole or in part. To explain how it addressed that issue or argument in the prior segment or proceeding, Commerce needed to rely on a calculation or analysis memorandum from that other segment or proceeding, and because calculation and analysis memoranda are new factual information, Commerce placed the memoranda on the record of the ongoing segment. Accordingly, consistent with § 351.301(c)(4), certain interested parties not only submitted arguments on the record challenging the applicability and relevance of the agency memoranda, but also submitted additional new factual information on the record, and Commerce was required to address both its previous practice, as well as the new factual information, whether or not directly applicable and responsive, in the final results or determination.

The benefit for Commerce to be able to place its former analysis and calculation memoranda on the record in response to arguments raised in the written arguments is evident, as is the opportunity for parties to argue why those former analysis and calculation memoranda are relevant or irrelevant. On the other hand, it is a significant burden on Commerce's time and resources to prepare and provide a meaningful response to new factual information placed on the record for the first time so late in the proceeding, and provides serious administrative and technical difficulties for the agency in issuing a timely and complete final determination or results.

For this reason, Commerce is proposing a modification to § 351.301(c)(4). Specifically, we are proposing that § 351.301(c)(4) be divided into two paragraphs: one paragraph applicable under the current procedures to nearly all submissions in a segment of a proceeding and one paragraph applicable specifically only after written arguments have been submitted to Commerce and Commerce subsequently determines, after considering those written arguments, that an agency analysis or calculation memorandum issued in another segment or proceeding is relevant to the ongoing segment. In that narrow situation, proposed § 351.301(c)(4)(ii) states that Commerce will identify on the record the issue to which the memorandum it is placing on the record appears to be relevant, and interested parties will subsequently have an opportunity to provide comments addressing the relevance of the memoranda and Commerce's analysis in the other segment to the issue to the agency. Interested parties will be able to argue that the facts and analysis in the memoranda are distinguishable from the facts and issues before Commerce in the immediate case, for example, but the regulation also makes clear under this narrow exception to the overall provision, that such comments on the agency calculation or analysis memorandum will not be permitted to be accompanied by new factual information.

11. Notices of Subsequent Authority—§ 351.301(c)(6)

At times while a segment is ongoing, a Federal court, such as the U.S. Court of International Trade (CIT) or U.S. Court of Appeals for the Federal Circuit (Federal Circuit), may issue a decision that an interested party believes is directly applicable to an issue currently before Commerce. Likewise, Commerce may address the issue, or a similar issue, in another segment or proceeding, and again, the interested party might believe that determination is directly applicable to the current segment. In those situations, a party might submit on the record of an ongoing proceeding a Notice of Subsequent Authority.

Our existing regulations do not address the timing of the submission of responsive comments and new factual information to the filing of a Notice of Subsequent Authority. Commerce is therefore proposing an addition to § 351.301, a paragraph (c)(6), which provides that interested parties have five days after the Notice has been submitted to provide responsive comments and factual information to rebut or clarify the Notice.

Furthermore, we recognize that when Commerce is in the last few weeks of the segment and is actively preparing the final determination or results, if a Notice of Subsequent Authority is submitted too close to the statutory deadline for the final determination or results, Commerce may not have enough time administratively to consider the arguments raised in the Notice and address them in the final determination or results.

Accordingly, we propose that § 351.301(c)(6) indicate that for Commerce to consider and address a Notice of Subsequent Authority in a final determination or results, it must be submitted with the agency no later than 30 days before the deadline for issuing the final determination or results. Likewise, for Commerce to consider responsive comments or factual information to the Notice of Subsequent Authority, responsive submissions must be filed no later than 25 days before the deadline for issuing the final determination or results.

Furthermore, to be assured that a Notice of Subsequent Authority is sufficiently complete for Commerce to consider, proposed § 351.301(c)(6) also explains that the Notice must identify the court decision or agency determination that is alleged to be authoritative to the issue before Commerce, provide the date the decision or determination was issued, explain the relevance of that decision or determination to the issue before Commerce, and be accompanied by a complete copy of the court decision or agency determination. Again, to be assured that Commerce has all the information that it needs to address the matter raised in the Notice of Subsequent Authority in its final determination or results, the regulation also requires that responsive comments directly address the contents of the Notice of Subsequent Authority and explain how the comments and accompanying information rebut or clarify the Notice.

12. The Countervailing Duty Adverse Facts Available Hierarchy—§ 351.308(g)

Section 776(d) of the Act provides that, in circumstances in which Commerce is applying adverse facts available in selecting a program rate, pursuant to sections 776(a) and (b) of the Act, Commerce may use a countervailable subsidy rate determined for the same or similar program in CVD proceedings involving the same country, or, if there is no same or similar program, Commerce may, instead, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates. Commerce developed its practice of applying our current hierarchy in selecting adverse facts available rates in CVD proceedings over many years, even before it was codified into the Act, to effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in CVD proceedings in a timely manner.[21] We believe clarifying the hierarchy in our AD/CVD regulations would be beneficial to those who participate in Commerce's CVD proceedings.

Accordingly, we are proposing that we outline the hierarchical analysis that Commerce will normally use in selecting a countervailable subsidy rate on the basis of facts otherwise available in a CVD proceeding in § 351.308, by adding a new paragraph (g). Section 351.308(g), as proposed, describes the different hierarchical steps and analyses that apply to CVD investigations and CVD administrative reviews, and sets forth certain guidelines and principles governing the application of these hierarchical analyses, consistent with Commerce's long-standing practice.

13. Foreign Government Inaction That Benefits Foreign Producers

13(a) Calculation of Normal Value of Merchandise From Non-Market Economy Countries—§ 351.408

13(b) Determination of Particular Market Situation—§ 351.416

13(c) Provision of Goods or Services—§ 351.511

13(d) Certain Fees, Fines, and Penalties—§ 351.529

There are different means by which governments or other public entities benefit industries within their borders. One way is through direct subsidization, such as when a government takes certain actions to provide a subsidy to a firm within its borders, such as a grant,[22] a loan,[23] or a loan guarantee.[24] Another means by which a government may provide a subsidy is through *inaction*—when the government fails to enforce its regulations, requirements, or obligations by not collecting a fee, a fine, or a penalty that the government should have otherwise collected under those regulations, requirements, or obligations. In that circumstance, the result is that the government has forgone revenue it was otherwise due, therefore benefiting the party not paying the fee, fine, or penalty. A government may also provide a subsidy by carving out circumstances where money, not related to tax revenues, is not due, therefore reducing foreign producers' cost of complying with regulatory requirements. Such inaction can be considered a financial contribution pursuant to section 771(5)(D)(ii) of the Act. There are many examples of a government providing benefits to parties through inaction. For example, a firm might have owed certain fees to the government for management of waste disposal, certain fines for violations of occupational safety and health standards in its facility, or certain penalties for non-compliance with other labor laws and regulations, yet the firm never paid the applicable fines or fees. A government may also have failed to take any action to collect fees, fines or penalties that were otherwise due in the first place. In both scenarios, it is Commerce's long-standing practice to treat unpaid and deferred fees, fines, and penalties as a countervailable subsidy, no matter if the government took efforts to seek payment, or otherwise recognized that no payment had been made or indicated to the company that it was permitting a payment to be deferred.[25]

We recognize that every country retains discretion to pursue its own priorities, whether through directed efforts to assist in the economic success of its domestic industries, such as subsidies and government assistance, or by implementing and enforcing certain laws, policies and standards for the public welfare.[26] However, we also recognize that when governments take little or no action to implement or enforce such laws, policies, and standards, benefits may accrue to a company in a way that provides the company with a financial advantage over its competitors. We have, therefore, determined that it is important to issue a regulation under proposed § 351.529, titled ''Certain Fees, Fines, and Penalties,'' which incorporates our long-standing practice covering unpaid or deferred fees, fines, and penalties. We note that the proposed addition of this regulatory provision is not intended to preclude Commerce from examining such fees, fines, penalties, and similar government measures as alternative forms of financial contributions under other provisions of the statute and regulations, where the facts in those instances indicate other legal and analytical approaches are appropriate.

Proposed paragraph (a) under § 351.529 explains that a financial contribution exists if Commerce determines that a fee, fine, or penalty which is otherwise due, has been forgone or not collected within the meaning of section 771(5)(D)(ii) of the Act, with or without evidence on the record that the government took efforts to seek payment or acknowledged nonpayment or deferral. As we have noted, this countervailable subsidy encompasses instances of government inaction, where it is that inaction which evinces the existence of the financial contribution.

[21] *See Hyundai Steel Co.* v. *United States,* 319 F.Supp.3d 1327, 1354 (CIT 2018) (quoting *Timken Co.* v. *United States,* 354 F.3d 1345 (Fed. Cir. 2004) (''Commerce may employ adverse inferences about the missing information to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully'') (internal quotations and citations omitted)); *see also Fine Furniture (Shanghai) Ltd.* v. *United States,* 748 F.3d 1365, 1373 (Fed. Cir. 2104) (''The purpose of (section 776(a) and (b) of the Act), according to the (SAA) . . . is to encourage future cooperation by 'ensur{ing} that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.' '' (quoting the SAA at 870) and explaining that an adverse rate was selected not ''to punish'' a party in a CVD proceeding, ''but rather to provide a remedy'' for the government's ''failure to cooperate'').

[22] *See* § 351.504.

[23] *See* § 351.505.

[24] *See* § 351.506.

[25] *See, e.g., Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, and Intent to Rescind Review in Part; 2020,* 87 FR 33720 (June 3, 2022), and accompanying Preliminary Decision Memorandum (PDM) at 17 (finding port usage fee exemptions provide a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act), unchanged in *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2020,* 87 FR 74597 (December 6, 2022), and accompanying IDM at 9; *see also AK Steel Corp.* v. *United States,* 192 F.3d 1367, 1382 (Fed. Cir. 1999) (sustaining Commerce's determination to treat the exemption from dockyard fees as a countervailable benefit).

[26] *See* Joel P. Trachtman, *International Regulatory Competition, Externalization, and Jurisdiction,* 14 Harv. Int'l L.J. 47, 58 (1993).

Proposed paragraph (b) explains that if the government has exempted or remitted a fee, fine, or penalty, in part or in full, and Commerce determines that it is revenue which has been forgone or not collected in paragraph (a), a benefit exists to the extent that the fee, fine, or penalty paid by the party is less than if the government had not exempted or remitted that fee, fine, or penalty. Likewise, also under proposed paragraph (b), if Commerce determines that payment of the fee, fine, or penalty was deferred, it will determine that a benefit exists to the extent that appropriate interest charges were not collected, and the deferral will normally be treated as a government loan in the amount of the payments deferred, according to the methodology described in § 351.505. The language for determining the benefit for nonpayment or deferral is similar to other revenue forgone benefit regulations, such as § 351.509, covering direct taxes, and § 351.510, covering indirect taxes and import charges (other than export programs).

In addition to the non-collection of payment for fees, fines, or penalties, or deferring such payments, there are other means by which foreign governments can assist foreign producers and suppliers, to the disadvantage of their foreign competitors, through inaction—by allowing those producers and suppliers to avoid certain compliance costs which would otherwise apply.

Government inaction and failure to enforce property (including intellectual property), human rights, labor, and environmental protections lowers the cost of production for firms in their jurisdiction.[27] This is because such firms are not paying a ''cost of compliance'' for which firms operating in other jurisdictions are responsible to meet regulatory standards.[28] The economics literature explains this in terms of externalities and public goods, identifying the fact that firms base their decisions almost exclusively on direct cost and profitability considerations, largely ignoring the indirect societal costs of their production decisions.[29]

For example, foreign government environmental laws, policies, and standards might be weak, ineffective, or even nonexistent, allowing producers to dump toxic waste into the local water supply, or spew corrosive smog into nearby neighborhoods, which may enable producers to produce merchandise at costs lower than would be possible if the environmental laws were in place and effectively enforced. In other words, if a government does not require companies to mitigate the environmental impact of production, either through investing resources to avoid or minimize the environmental impacts, or by paying compensation for such impacts, their costs of production will be lower.[30] Of course, with lower costs, the foreign producers would also be able to take those cost savings and ''race to the bottom''—charging their purchasers lower prices for their merchandise than their foreign competitors would be able to charge, all else being equal.

In another example, failure by foreign governments to implement or enforce labor and human rights protection laws would allow for unsafe and unhealthy working conditions, slave or forced labor, child labor, and even human trafficking. This would allow companies to avoid paying costs associated with preventing or mitigating such adverse labor and human rights impacts and thereby reduce their costs of production.[31]

Similarly, if a producer incorporates certain technology into its production of merchandise which is subject to patent protections in the foreign country or abroad, but the foreign government does not act to enforce the intellectual property rights of the patent owner, absent the need to pay usage or licensing fees, the producer might enjoy a windfall not available to international competitors who, by law, are required to honor the rights of the patent owner and pay such fees. Put another way, companies would be able to use the knowledge others create without the high fixed costs of creating that knowledge themselves, or without paying the creator of the knowledge for its use, allowing the foreign producers to enjoy lower costs of production than they would if the intellectual property rights were properly enforced.[32] Again, with lower and distorted production costs, the foreign producer in that scenario would be able to charge its customers less, all else being equal, than producers from countries in which intellectual property rights are respected and enforced.

Likewise, an unrelated entity might forcefully take over a company's factory or inventory in violation of the producer's property and real property rights, while the national government takes no action to prevent such usurpation. The result of such a forced transfer of managerial control could result in the price of the producer's merchandise being lowered to unprofitable levels.

These examples of foreign government inaction could result in costs and prices that are unreasonably suppressed and create an unlevel playing field between producers and suppliers in countries in which governments provide weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, and environmental protections, and producers and suppliers in countries in which the governments provide and enforce such protections. When such standards are not enforced, the lack of enforcement does more than merely lower firms' production costs. Lower production costs can enable firms to lower prices for their products, which enable these firms to gain market share to the disadvantage of foreign competitors, including U.S. businesses, who pay such costs of compliance. For this reason, we propose to make certain modifications to the AD/CVD regulations to address this concern.

First, we proposed a modification to § 351.511(a), which applies to a CVD analysis covering the provision of goods or services. Under that provision, Commerce investigates whether goods or services are provided for less than adequate remuneration by the government.[33] In determining the adequacy of remuneration, Commerce is directed by the regulation to compare the ''government price of the good or service to a market-determined price for the good or service.'' [34] We believe that the lower and distorted prices that may result from the above-mentioned types of government inaction may, in some

[27] *See* OECD, *OECD Regulatory Policy Outlook 2018: Glossary, https://www.oecd-ilibrary.org/sites/9789264303072-51-en/index.html?itemId=/content/component/9789264303072-51-en,* accessed February 2, 2021.

[28] *Id.*

[29] *See* International Monetary Fund (Thomas Helbling), ''Externalities: Prices Do Not Capture All Costs,'' *Finance & Development* (date unspecified); *see also* Coase, Ronald, ''The Problem of Social Cost.'' *Journal of Law and Economics.* 3 (1): 1–44 (1960); Cornes, Richard, and Todd Sandler, *The Theory of Externalities, Public Goods, and Club Goods,* Cambridge University Press (1986); and Paul Samuelson, ''Diagrammatic Exposition of a Theory of Public Expenditure,'' *The Review of Economics and Statistics,* 37 (4): 350–56 (1955).

[30] *See* The World Bank, *International Trade and Climate Change: Economic, Legal, and Institutional Perspectives* (2008), at 30–31.

[31] *See* United Nations Human Rights Office of the High Commissioner, *The Corporate Responsibility to Respect Human Rights* (2012), at 5 and 40; and International Labor Organization, *The benefits of International Labour Standards, https://www.ilo.org/global/standards/introduction-to-international-labour-standards/the-benefits-of-international-labour-standards/lang--en/index.htm,* accessed January 30, 2023.

[32] *See* World Intelligence Property Organization, *The Economics of Intellectual Property* (January 2009), at 2.

[33] *See* section 771(5)(D)(iii) of the Act; and § 351.511.

[34] *See* § 351.511(a)(2)(i).

circumstances, not allow for appropriate comparisons.

For example, in selecting a benchmark under § 351.511(a)(2), if Commerce determines that parties have demonstrated, with sufficient information, that the above-mentioned types of government inaction distorted certain potential benchmark prices, Commerce may determine that those prices are unusable and should be excluded from consideration as a benchmark.

Historically, Commerce has rejected certain world market prices from its averaging exercise when evidence on the record supported a determination that certain ''factors affecting comparability'' existed that undermined the use of prices from a specific country,[35] and the CIT has affirmed this practice, holding that Commerce's ''method of calculating a world market price'' was ''reasonable,'' and that ''Commerce need not conduct an average where the prices to be included are not consistently reported or otherwise would have a distortive effect.'' [36]

As explained above, one of the main purposes of the trade remedy laws is to ensure a level playing field between U.S. producers and their foreign competitors. To achieve that goal in the context of a less than adequate remuneration analysis, it is appropriate to use benchmark prices pursuant to § 351.511(a)(2) that are not distorted due to government action or, in some cases, inaction.

For purposes of determining a benchmark under § 351.511(a)(2), in light of the fact that government inaction in certain matters can result in distorted prices, we therefore propose to add a provision to § 351.511(a)(2) which states that when parties have demonstrated, with sufficient information, that there is a likely impact on prices of that input as a result of weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, or environmental protections, we may exclude such prices from our benchmark analysis. It is important to note that this will not be an exercise Commerce intends to conduct in its analysis of every potential benchmark, but only when a party provides Commerce with sufficient evidence on the record which shows that a government's inaction in enforcing, for example, environmental or labor protections, is likely to result in unreasonably suppressed prices, and therefore, those prices should be excluded from the benchmark.[37] If such arguments and evidence are provided to the agency, Commerce will consider that information and, where appropriate, exclude the use of prices from that country for that input in its benchmark calculation where Commerce determines that such practices likely render such prices unreliable and unreasonable.

Turning from the CVD law to the AD law, in selecting a surrogate value in determining normal value for non-market economy AD investigations and administrative reviews, Commerce is proposing a change to § 351.408 to provide that Commerce may consider weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, or environmental protections in its analysis, should interested parties raise the issue and submit information on the record in support of their claims.[38]

Section 773(c)(1) of the Act states that in investigations and administrative reviews concerning non-market economy countries, Commerce should apply surrogate values from a market economy to a company's factors of production in determining normal value. The provision states that Commerce should select surrogate values based ''on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.'' Generally, Commerce applies its standard factor valuation test, which is found in § 351.408(c), to determine appropriate surrogate values. However, Commerce proposes additional considerations in light of its practice and analysis over the last few years, especially in light of challenges to Commerce's use of certain labor values before the CIT,[39] in which the CIT directed Commerce to reconsider further its standard consideration of an appropriate labor value for purposes of its surrogate value analysis. In those cases, on remand, Commerce addressed in detail the fact that there may be certain elements that impact the costs of production, yet those elements are not addressed in Commerce's current factor valuation test. In each remand, Commerce determined that it had the authority to reject the use of certain surrogate values as inappropriate, outside of its standard factor valuation test, and in each case the court affirmed Commerce's redetermination in that regard.

For the reasons described above with respect to foreign government inaction, we have concluded that it would be beneficial to Commerce and the public to include this additional potential

[35] Commerce explained in issuing the regulation in 1998 that rather than reject world market prices for not being comparable, it might, in specific circumstances, adjust world market prices for ADs and CVDs in those countries. However, it indicated that such an adjustment would only be made ''to reflect a determination of dumping or subsidization made by the importing country with respect to the input product imported from the country from which the world market price is derived.'' *See Countervailing Duties; Final Rules,* 63 FR 65348 (November 25, 1998) (*CVD Preamble*).

[36] *See Rebar Trade Action Coalition* v. *United States,* 398 F. Supp. 3d 1374, 1383 (August 8, 2019), affirming *Steel Concrete Reinforcing Bar from the Republic of Turkey, Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2015,* 83 FR 16051 (April 13, 2018), and accompanying IDM.

[37] The inclusion of consideration of government inaction with respect to property (including intellectual property), human rights, labor, or environmental protections in § 351.511(a)(2) is in no way intended to modify Commerce's practice to consider foreign government actions or other relevant market conditions in accepting or rejecting proposed benchmarks.

[38] In addition to the consideration of government inaction on property (including intellectual property), human rights, labor, or environmental protections, we have included three additional considerations for disregarding proposed surrogate values in proposed § 351.408(d)(1) which were added to the Act in 2015 as section 773(c)(5), pursuant to the Trade Preferences Extension Act (TPEA). *See* TPEA of 2015, Public Law 114–27, 129 Stat. 362 (July 29, 2015); *see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*TPEA Dates Notice*). Section 773(c)(5) of the Act states that Commerce may ''disregard price or cost values without further investigation if the administering authority has determined that broadly available export subsidies existed.'' It also states that Commerce may disregard proposed surrogate values if ''particular instances of subsidization occurred with respect to those price or cost values.'' Finally, it states that Commerce may disregard proposed surrogate values ''if those price or cost values were subject to an antidumping order.''

[39] *See, e.g., Ad Hoc Shrimp Trade Action Comm.* v. *United States,* 219 F. Supp. 3d 1286, 1292 (CIT 2017) (citing *Final Results of Redetermination Pursuant to Court Remand, Ad Hoc Shrimp Trade Action Committee* v. *United States,* Court No. 15–00279, Slip Op. 17–27 (CIT March 16, 2017), dated June 6, 2017, available at *https://access.trade.gov/resources/remands/17-27.pdf, aff'd Ad Hoc Shrimp Trade Action Comm.* v. *United States,* 234 F. Supp. 3d 1315, 1320 (CIT 2017)); *see also Final Results of Redetermination Pursuant to Court Remand, Tri Union Frozen Products Inc. et al.* v. *United States,* Consol. Court No. 14–00249, Slip Op. 17071 (CIT June 13, 2017), dated July 25, 2017, at 8–9, available at *https://access.trade.gov/resources/remands/17-71.pdf, aff'd Tri Union Frozen Prods., Inc.* v. *United States,* 254 F. Supp. 3d 1290 (CIT 2017), *aff'd Tri Union Frozen Products, Inc.* v. *United States,* 741 Fed. Appx. 801 (Fed. Cir. 2018) (collectively, *Tri Union Frozen*); *Refillable Stainless Steel Kegs from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 84 FR 57010 (October 24, 2019), and accompanying IDM at 35; and *Final Results of Redetermination Pursuant to Court Remand, New American Keg* v. *United States,* Slip Op. 21–30 (March 23, 2021), dated July 7, 2021, at 3 (citing *Tri Union Frozen*), available at *https://access.trade.gov/resources/remands/21-30.pdf.*

analysis in the AD regulations. We, therefore, propose adding paragraphs (d)(1) and (2) to § 351.408 which states that Commerce may disregard a particular surrogate value if it concludes that weak, ineffective, or nonexistent environmental, property (including intellectual property), labor, or human rights protections undermine the appropriateness of using a particular surrogate value in Commerce's analysis. Because such an analysis could be resource intensive, however, we are also proposing that such an analysis be applied only if the surrogate value at issue involves a significant input [40] or labor, and only if that proposed surrogate value is sourced from a single surrogate country or an average of values derived from a limited number of countries.[41]

Section 773(c)(4) of the Act provides that, in valuing factors of production, Commerce will ''utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are (A) at a level of economic development comparable to that of the non-market economy country and (B) significant producers of comparable merchandise.'' There may be times in which the administrative record reflects that all of the potential surrogate values for a particular input that come from a country at a level of economic development as the subject country and/or from a country that is a significant producer of comparable merchandise might not be appropriate to use as a surrogate value because of weak, ineffective, or nonexistent environmental, property (including intellectual property), labor, or human rights protections. In that case, if there are also alternative options on the record from countries that are not at a level of economic development comparable to the subject country and/or are not significant producers of comparable merchandise, we will consider those alternatives and might determine that the use of the comparable/significant producer valuations should not be used under the ''extent possible'' language of the Act. We therefore propose adding paragraphs (d)(3) and (4) to § 351.408 to allow for uses of potential surrogate values from other sources on the record in that situation.

Finally, we also propose including consideration of weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, and environmental protections that lower and distort costs of production as examples of a particular market situation, under proposed § 351.416. We discuss those examples below in describing the proposed particular market situation regulation.

14. Regulation for Determining the Existence of a Particular Market Situation—§ 351.416

On November 18, 2022, Commerce solicited comments from the public with respect to its cost-based PMS practice.[42] As Commerce explained in its solicitation, in the TPEA, section 771(15) of the Act was amended to provide that Commerce consider sales to be outside the ''ordinary course of trade'' when there are situations in which Commerce ''determines that the particular market situation prevents a proper comparison with the export price or constructed export price.'' [43] Further, section 773(e) of the Act was amended to provide that in determining the ''costs of material and fabrication or other processing of any kind employed in producing the merchandise, during a period which would ordinarily permit the production of the merchandise in the ordinary course of trade,'' for determining constructed value, ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade,'' Commerce ''may use another calculation methodology under this subtitle or any other calculation methodology.'' [44] As Commerce explained in the *PMS ANPR,* application of the cost-based PMS provisions in AD law has been complicated by the fact that the Act does not: ''(1) define a particular market situation ('PMS'), (2) identify the information which Commerce should consider in determining the existence of a PMS that 'does not accurately reflect the costs of production in the ordinary course of trade,' or (3) provide Commerce with guidance as to the information which Commerce should consider in determining if a market situation is, or is not, 'particular.' '' [45]

Commerce explained in the *PMS ANPR* that in 2022, the Federal Circuit issued a decision which provided Commerce with some guidance on factors which Commerce should continue to consider in determining whether a cost-based PMS exists and how to adjust for that cost-based PMS.[46] In light of that decision, Commerce determined that it was appropriate to issue regulations explaining the procedures to determine if a cost-based PMS exists, and other matters related to a PMS determination.

The Federal Circuit held in *NEXTEEL* that Commerce's finding that a cost-based PMS existed in Korea during the period of review was unsupported by substantial evidence.[47] In analyzing Commerce's PMS determination, the Federal Circuit appeared to reach at least four conclusions.

(1) A cost-based PMS must cause costs to deviate from what they would have otherwise been in the ordinary course of trade.[48]

(2) A cost-based PMS must be particular to certain producers or exporters, inputs, or the market where the inputs are manufactured, during the relevant period.[49]

(3) If the cost-based PMS involves a countervailable subsidy, Commerce's analysis should not be conclusory, but analyze if a subsidy existed during the period of review and indicate that the countervailable subsidy ''affected'' the costs of producing the subject merchandise or the prices and costs of an input into the cost of production.[50]

(4) Finally, Commerce is not required to precisely quantify a distortion in costs by the PMS to find the existence of a PMS, but if Commerce is able to quantify the distortion, such a quantification may help support a finding of the existence of a PMS.[51]

In light of the Federal Circuit's holding and analysis in *NEXTEEL,* as well as our experience in administering the PMS provision over the past several years, we determined that it was appropriate to revisit Commerce's approach to analyzing and determining the existence of a PMS that distorts costs of production.[52] Therefore, the PMS ANPR requested public comment and, in particular, information on the

[40] Commerce has not defined the term ''significant'' for purposes of its usage in the term ''significant input'' for purposes of these regulations. This is because we have found that an input might at times be the most expensive input in producing subject merchandise, and therefore distortions in the cost of the input have a direct effect on the cost of production, while at other times the value of the input may be small in the overall cost structure of the subject merchandise, but the importance or uniqueness of the input to the function or existence of the product makes it significant.

[41] Commerce anticipates that the phrase ''limited number'' will normally involve averaged values that are sourced from no more than three countries.

[42] *See PMS ANPR.*

[43] *See* the TPEA; *see also TPEA Dates Notice,* 80 FR 46793.

[44] *See* sections 771(15) and 773(e) of the Act.

[45] *See PMS ANPR,* 87 FR 69234.

[46] *Id.*

[47] *See NEXTEEL Co.* v. *United States,* 28 F.4th 1226 (Fed. Cir. 2022) (*NEXTEEL*).

[48] *Id.,* 28 F.4th at 1234.

[49] *Id.,* 28 F.4th at 1234 and 1236.

[50] *Id.,* 28 F.4th at 1235–36.

[51] *Id.,* 28 F.4th at 1234.

[52] *See PMS ANPR,* 87 FR 69235.

following: (1) identify information which they believe Commerce should consider in determining if a PMS exists which distorts the costs of production if that information is reasonably available and relevant to the PMS allegation; (2) identify information which they believe Commerce should not be required to consider when determining if a PMS exists; and (3) provide comments on adjustments which Commerce may make to its calculations when it determines the existence of a PMS, but the record before it does not allow for the precise quantification of cost distortions.[53] We received 19 submissions providing responses to our questions, and offering additional suggestions and other views and arguments.

After considering Commerce's practice, the Federal Circuit's analysis in *NEXTEEL,* and the submissions we received in response to the *PMS ANPR,* we propose that we issue a new regulation—''§ 351.416 Determination of a particular market situation.'' The proposed regulation has multiple paragraphs. The first proposed paragraph, (a), defines the two types of PMS identified in the statute—a PMS that prevents a proper comparison of sales prices in the home country market with U.S. export prices and constructed export prices (a ''sales-based PMS''), and a PMS that distorts the costs of production of the merchandise subject to an investigation, suspension agreement, or an AD order (a ''cost-based PMS'').

Proposed paragraph (b) of § 351.416 explains that an interested party making an allegation of a PMS must support that allegation on the record with information that is relevant to the allegation and reasonably available to that interested party. Commerce recognizes that sometimes importers and domestic producers, for example, may not have access to foreign prices and costs; thus, Commerce will expect that they provide only evidence with their claim that is reasonably available. That being said, if they are alleging the existence of a PMS that was alleged and/or analyzed in a previous segment of the same proceeding, the proposed regulation also explains that they must identify the facts and arguments in the submission which are distinguishable from the previous segment. It is a burden on both the agency and other parties when an allegation is submitted in a segment and the alleging party does not indicate where the facts or claims diverge from previous allegations before Commerce.

[53] *Id.*

Proposed paragraph (c) of § 351.416 addresses a sales-based PMS, and in proposed § 351.416(c)(1) provides examples of such particular market situations in the home market. Furthermore, proposed § 351.416(c)(2) explains that similar government actions and inactions in a third country to those examples may prevent third country prices from being properly compared to export prices and constructed export prices. Finally, in proposed § 351.416(c)(3), the proposed regulation explains that when Commerce determines that a circumstance or set of circumstances prevents a proper comparison between foreign market sales prices and export prices or constructed export prices, Commerce may conclude that it is necessary to determine normal value by using a constructed value, in accordance with section 773(e) of the Act and § 351.405.

The remainder of proposed § 351.416 addresses a cost-based PMS analysis. Proposed paragraph (d) of § 351.416 explains that the first step in Commerce's analysis is to determine if the record information supports a determination that a market situation exists. Commerce will review the record information to determine if a distinct circumstance, or set of circumstances, exists that distorts the cost of production, such that: (1) the costs of materials and fabrication do not accurately reflect the cost of production in the ordinary course of trade; and (2) the record evidence reflects that the distinct circumstance or set of circumstances being alleged likely contributed to the distortion in prices or costs of a significant input, or the costs of production. This analysis is usually qualitative, rather than quantitative, in nature, although sometimes a market situation can be shown through a quantitative analysis—such as the nonpayment of trade remedies upon importation in a foreign country, or the reimbursement by a foreign government for the payment of trade remedies. In either case, whether Commerce's analysis is solely qualitative or both qualitative and quantitative, paragraph (d)(2) of proposed § 351.416 explains that Commerce will consider all relevant information submitted on the record by interested parties, and provides some examples of information that Commerce has determined to be especially helpful in its analysis of alleged market situations: (1) comparisons of prices with and without the existence of the market situations; (2) detailed reports and documentation issued by foreign governments, market analysis organizations, or academic institutions that analyze government and nongovernmental programs and actions and conclude that considerably lower prices for a significant [54] input into the production of subject merchandise would likely result; (3) similar reports that analyze, instead, price deviations for significant inputs and conclude that such deviations resulted, in whole or in part, from certain government or nongovernmental actions; and (4) Commerce's previous determinations, whether they be preliminary, final, or in a remand redetermination, that information on the record did, or did not, support the existence of the alleged PMS. Commerce also includes an additional type of information on the list, (5), which is unique to allegations of a market situation due to weak, ineffective, or nonexistent property, intellectual property, human rights, labor, and environmental protections, in that pursuant to such an allegation, Commerce will consider information derived from other countries where those protections are allegedly effectively enforced to determine if the lack of protections in the subject country contributed to cost distortions.

In requesting information from the public in the *PMS ANPR,*[55] Commerce not only requested comments on the type of information that would be helpful to consider in most PMS analyses, but also requested comments on information that Commerce would not be required to consider, as a rule, in every case involving a cost-based PMS analysis.[56] The reason behind this question is one of administrability and practicability. It has been our experience that some parties will provide information to Commerce that may seem relevant, but does not assist the agency's analysis. To save all parties involved time and effort, we have therefore determined to propose that Commerce not be required to consider

[54] As noted above, Commerce has intentionally not defined the term ''significant'' for purposes of its usage in the term ''significant input'' in these regulations. This is because we have found that an input might at times be the most expensive input, while at other times the value of the input may be small but the importance or uniqueness of the input to the function or existence of the product makes it significant. For example, the cost of a unique microchip in manufacturing an electronic device might be relatively inexpensive in comparison to other inputs into the production of the device, but because of the importance of the microchip to the functions of the device, if the cost of the microchip is suddenly reduced by two-thirds, the considerable change in price might have out-sized effects on the overall cost of production of the device. We would find that such an input in that scenario is also a ''significant'' input.

[55] *See PMS ANPR,* 87 FR 69235.

[56] *Id.*

four types of information and associated arguments in every cost-based PMS analysis.[57]

For the first example of information that we will not be required to consider as part of our analysis in most of our cost-based PMS cases, in paragraph (d)(3) of proposed § 351.416, we describe an argument in which a party claims that because the interested party alleging the existence of a PMS is unable to provide data on the record precisely quantifying the distortions of prices or costs in the market of the subject country, that inability to quantify the distortions with precision should prohibit a finding of a PMS. We do not find the lack of precision in the quantifiable data relating to the distortion of costs to be fatal to a PMS determination. Accordingly, we have proposed in the regulation that we will not normally consider challenges to the precision of such quantifiable data in our cost-based PMS analysis. As we explain above, the Federal Circuit in *NEXTEEL* explicitly stated that Commerce is not required to precisely quantify a distortion in costs by the PMS to find the existence of a PMS.[58] This is logical because often Commerce has information on the record that shows certain governmental or nongovernmental actions (or inactions) that are likely to have an impact on the costs of production of subject merchandise in the market of the subject country, given the nature of the action or inaction and the product at issue, but no party has quantified, with precision, that impact. In such a case, the record might reflect that it is reasonable to determine that a PMS exists from the evidence before Commerce, but some interested parties would argue that we nonetheless should be prohibited from making such a determination because of the absence of precise quantifiable data. Although Commerce has the authority to consider such an argument, such an argument is typically unhelpful to our analysis. We therefore propose that Commerce would not be required to consider such an argument in its PMS analysis.

Second, we propose that Commerce would not be required to consider speculative costs or prices. In the event that an interested party speculates what the costs of the subject merchandise, or prices or costs of a significant input into the production of subject merchandise, would be absent the alleged market situation, or its contributing circumstances, without objective documentation to support such speculation, we would not be required to consider such speculative costs or prices in our analysis. Although Commerce need not use precise quantifiable data to find the existence of a PMS, Commerce also should not rely on mere hypotheticals and speculations, with no objective data to support such claims. Accordingly, we propose that Commerce not be required to address proffered costs and prices in its PMS analysis if those costs and prices are not supported by independent and government studies, former Commerce cost-based PMS determinations, or certain other economic information.

Third, we proposed that Commerce not be required to consider information about actions taken or not taken by governments, state enterprises, or other public entities in other market economy countries in comparison with the actions taken or not taken by the government of the subject country. In general, actions taken by each government that might distort costs within its own borders have no bearing on the market-distorting actions taken by governments in other countries. An exception is when Commerce is considering whether government inaction in providing certain protections distorts the costs of production in the subject country, in which case Commerce might find certain actions taken by other governments in other countries to be informative and potentially beneficial. In such cases, if a government provides weak, ineffective, or nonexistent property, intellectual property, human rights, labor, or environmental protections to a producer of subject merchandise or a supplier of significant inputs into the production of subject merchandise, the lack of such protections might distort the costs of production, but the only potential way to identify such distortions is to consider the protections granted by other governments to similar industries in other countries and the costs of production for those similar industries under such governmental protections. Therefore, we propose that Commerce would not normally be required to consider the actions or inactions of governments of countries other than the subject country in our analysis, except when there are alleged market situations involving government failures to implement or enforce certain protections.

Finally, we propose that Commerce would not be required to consider references to historical policies and previous actions taken by the government of the subject country with respect to the subject merchandise or a significant input into the production. Parties sometimes claim that because an export restriction, or other market-distorting policy or practice, has existed for many years in the subject country, the costs resulting from those actions or policies are now part of the ''ordinary course of trade'' for that country, and thus Commerce cannot determine that such actions or policies ''distort'' costs. We do not find such a claim to be persuasive. As the proposed regulation states, ''the pre-existence of government actions or inactions, or other circumstances, does not make those situations market-based or nullify the distortion of costs during the relevant period of investigation or review.'' We find that actions taken by a foreign government that are not in accordance with general market principles or otherwise result in price suppression will normally distort costs of production and will continue to distort costs of production every year they are in effect. Therefore, we propose that Commerce not be required to consider such unreasonable claims and information in its market situation analysis.

When Commerce determines the existence of a market situation in the subject country such that the cost of materials and fabrication or other processing does not accurately reflect the cost of production in the ordinary course of trade, proposed paragraph (e) of § 351.416 requires that Commerce next consider if that market situation is particular. Under proposed paragraph (e)(1) of § 351.416, a market situation is particular if the resulting distortions in prices or costs impact only certain products or certain parties in the subject country. The distinction turns on whether the situation impacts a ''particular market,'' or all market activity in the country. If it impacts all market activity in a country in some way, Commerce must determine whether the market situation impacts certain parties or products to a greater extent than others, and is therefore still ''particular'' for purposes of a PMS analysis, or if the impact is generally spread uniformly among the country as a whole. In response to the numerous comments which we received from outside parties on this issue, proposed paragraph (e)(1) of § 351.416 also makes clear that: (1) a market situation may be considered particular even if a large number of distinct products or parties are affected; (2) a market situation can exist in multiple countries and still be considered ''particular'' for purposes of

[57] This is not to say that Commerce is prohibited from considering such information and arguments, but we propose that Commerce be not required in most cases to consider data that, based on the agency's experience, are not helpful to the PMS analysis.

[58] *See NEXTEEL,* 28 F.4th at 1234.

a PMS analysis if Commerce determines that the market situation distorts the costs of only certain products or affects only certain parties in the subject country; and (3) a market situation can be determined to be particular in several distinct circumstances, and can be particular to certain products, importers, producers, exporters, purchasers, users, enterprises, or industries, either individually or in combination with other entities. It is important to emphasize that although this list of particular entities that might be affected by a PMS is not exhaustive, multiple outside parties requested that Commerce emphasize in its regulations that for a market situation to be particular, it need not be ''unique'' or excessively narrow in its application. We agree with those concerns, and believe the language in the proposed regulation, including the list of particular entities that might be affected by potential market situations, will provide clarity in that regard.

Just as the regulations under proposed paragraph (d)(2) of § 351.416 list information which Commerce normally will consider helpful in determining if a market situation exists that distorts the costs of production, proposed paragraph (e)(2) lists information which Commerce will likely find helpful in determining if a market situation is particular. Specifically, the provision states that Commerce may consider all relevant information submitted on the record by interested parties including, but not limited to, the size and nature of the market situation, the volume of merchandise potentially impacted by the price or cost distortions resulting from the market situation, and the number and nature of the potential entities affected by those price or cost distortions.

We recognize that each type of PMS is distinct and different from others and, therefore, the factors Commerce considers in its particularity analyses will largely vary from market situation to situation. For example, if Commerce determines that a particular company has been permitted to produce subject merchandise without providing effective pollution controls or labor, health, and safety protections, the analysis Commerce will conduct to determine if such a circumstance is particular will be different from an analysis of a country-wide non-countervailable subsidy that benefits producers of certain aluminum products. For this reason, in these proposed regulations, we have refrained from identifying information which should not be required as part of our particularity analysis, because data which are important to determine if one market situation is particular might in fact be unimportant for another.

In the *PMS ANPR* we also requested ''comments on adjustments which Commerce may make to its calculations when it determines the existence of a PMS, but the record before it does not allow for the quantification of cost distortions.'' [59] As a matter of clarification, the Federal Circuit held in *NEXTEEL* that nothing ''in the statute requires Commerce to quantify the distortion *precisely*.'' [60] Accordingly, under proposed paragraph (f) of § 351.416, if Commerce is ''unable to precisely quantify distortions in costs based on record information,'' then Commerce may use any reasonable methodology to adjust its calculations based on the relevant information available. This proposed language was developed after consideration of the many adjustments suggested by outside parties including previously calculated CVD rates, regression analysis models, a benchmarking analysis, and the use of surrogate values. Although we agree that each of these suggested adjustments to Commerce's cost calculations might be warranted in certain circumstances, we propose that, as a general matter, when a PMS cannot be precisely quantified, Commerce may use a methodology to adjust its calculations that is reasonable based on the facts in the record before it.

Many commenters on the *PMS ANPR* also indicated that it would be beneficial to both Commerce and the public if the regulations provided examples of particular market situations that distort, or contribute to the distortion of, the costs of production in the subject country. Therefore, proposed paragraph (g) provides 12 examples of potential particular market situations that alone, or in conjunction with other examples, may be addressed by Commerce in its AD calculations.

In two of the examples (examples six and seven), a foreign government does not require an importer, producer, or exporter of the subject merchandise to pay duties or taxes associated with certain trade remedies for a significant input, or the foreign government rebates the duties or taxes paid by those parties.[61] Because in both of those examples the market distortion can be precisely quantified by the unpaid or rebated duties, those examples do not require further analysis.

Each of the remaining 10 examples requires that Commerce: (1) identify the potential market situation; (2) analyze and determine if the potential market situation likely contributes to cost or price distortions (and is therefore, in fact, a market situation); (3) analyze and determine whether the market situation is particular; and (4) assess whether the cost or price distortions ''can be addressed in the Secretary's calculations of the costs of production.''

The first five examples apply only when the alleged PMS contributes to price or cost distortions of a significant input into the production of subject merchandise in the subject country. The first example involves the concern of global overcapacity; regardless of the impact of such overcapacity of the significant input on other countries, if the supply of the input is excessive enough to contribute to distortions of the price or cost of that input in the subject country, Commerce may address that overcapacity through its calculations.

On the other hand, the second, third, fourth, and fifth examples pertain to circumstances involving the foreign government; specifically market situations in which: (A) the foreign government, a state-owned enterprise or other public entity is the predominant producer of a significant input; (B) the foreign government, a state-owned enterprise, or other public entity intervenes in the market for a significant input; (C) the foreign government limits exports of a significant input; and (D) the foreign government imposes export taxes on a significant input.

Four of the remaining examples involve government, state-owned enterprise, or other public entity actions or inactions that contribute to distortions to either the price or the cost of a significant input into the production of subject merchandise, or directly to the overall cost of production of the subject merchandise itself. The eighth and ninth examples pertain to market situations in which those entities either provide direct financial assistance or other support to producers or exporters of the subject merchandise or significant inputs,[62] or otherwise

[59] *See PMS ANPR,* 87 FR 69235.

[60] *See NEXTEEL,* 28 F.4th at 1235 (emphasis added).

[61] For example, Commerce has found the nonpayment of ADs and safeguard measures to be a PMS. *See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018,* 84 FR 64041 (November 20, 2019), and accompanying IDM at Comment 2.

[62] To be clear, government assistance may take the form of a subsidy, whether countervailable or not, but may also take other forms. A countervailable subsidy requires that the subsidy be a financial contribution that provides a benefit and is specific. *See* sections 771(5) and (5A) of the Act. However, government assistance need not be countervailable to distort cost of production.

influences the production of subject merchandise or significant inputs through indirect actions, such as domestic-content and technology transfer requirements. The tenth and eleventh examples pertain to government inaction, in which the foreign government or other public entity provides weak or ineffective property, intellectual property, human rights, labor, or environmental protections, which contribute to distortions in the costs of production of the subject merchandise or price or cost of significant inputs, or provides no protections whatsoever, and again, the result is the likely distortion of the costs of production of the subject merchandise or price or cost distortions of a significant input.

Finally, the last example involves no government involvement, but instead pertains to business relationships between producers and input suppliers, such as strategic alliances or noncompetitive arrangements, in which the prices of the significant inputs are not determined in accordance with market-based principles, and those relationships likely contribute as well to distortions in the costs of production.

As we explain above, there are many types of distinct circumstances and sets of circumstances that may distort the costs of production in a subject country, and many combinations of potential products and parties that may be particularly impacted by those situations. Accordingly, although we believe these 12 examples are illustrative and helpful, we wish to make clear that the list of examples in proposed paragraph (g) of § 351.416 is not intended to be exhaustive.

Finally, we acknowledge in proposed paragraph (h) of § 351.416 that when Commerce determines the existence of a cost-based PMS, it is possible that in some cases that Commerce may conclude that the cost-based PMS contributes to the existence of a price-based PMS, in accordance with section 771(15) of the Act. We expect that including this provision in the regulation will provide additional clarity to our enforcement of both types of particular market situations addressed in the Act.

The proposed regulation does not include a ''cost-based improper comparison'' provision as suggested by some commenters, in which Commerce would presume as a matter of course that when it determines that there is a cost-based PMS that distorts the market to a certain degree, a proper comparison between foreign market prices and U.S. prices would automatically no longer be possible and Commerce would therefore determine normal value using a constructed value. Even in hypothetical situations in which a cost-based PMS is so distortive that it alone could lead to an improper comparison of prices between markets, Commerce would still need to consider the facts of the record before it, in the first instance, before reaching such a conclusion. We do not believe that it would be appropriate for the proposed regulations to incorporate such a presumption as to Commerce's conclusions on such a matter, and therefore the proposed regulation does not contain such a presumption.

Commerce considered certain other suggestions by commenters and, although many were helpful and relevant, we have declined to include them in this proposed rule. For example, one commenter suggested that Commerce expand its consideration of government assistance in its cost-based PMS analysis to include transnational subsidies, *i.e.,* subsidies conferred by the government of a country that is not the exporting country in which the class or kind of merchandise is produced, exported, or sold. As we have not, to date, applied a cost-based PMS analysis in any investigation or administrative review to transnational subsidies, and believe that such an application in the first instance would require analysis and consideration of the program and facts unique to that program, we do not consider it appropriate to incorporate such an analysis into the proposed regulations.

In addition, we have not incorporated submission deadlines in the proposed § 351.416, but do want to emphasize that moving the deadline for the sales-based PMS allegation later in the proceeding, as suggested by some commenters, would make it more difficult for the agency to determine if a PMS exists that prevents a proper comparison of foreign market prices and U.S. prices. Thus, although we continue to have the ability to set time limits outside of these regulations in our investigations and administrative reviews, we have not proposed and do not intend to modify either of the deadlines for submitting a sales-based or cost-based PMS allegation.

Furthermore, this proposed rule does not incorporate a general ''rebuttable presumption'' in its regulations, as suggested by commenters, that reflects that, when Commerce determines that a cost-based PMS exists in the subject country such that the cost of materials and fabrication or other processing does not accurately reflect the cost of production in the ordinary course of trade in a particular segment of a proceeding, in future segments of the same proceeding Commerce would presume that the distortion of costs and a PMS continues to exist until a producer or exporter provides affirmative evidence that rebuts that presumption and shows that costs are no longer being distorted by the PMS. Commerce considered whether such a general presumption should exist only for those interested parties who were actually reviewed when Commerce found a PMS to exist in the first place, whether the presumption should apply to all potential parties impacted by a PMS in a given AD investigation or administrative review, or whether the presumption should apply to all future parties potentially impacted by a PMS under a given AD order. There was even a comment that Commerce should ''carry'' a PMS determination ''across cases'' such that an affirmative PMS finding in a particular market in one case would establish the existence of a PMS in that same market in other cases involving different merchandise unless new information is placed on the record of those other cases that contradicts that presumption.

Commenters frequently emphasized that, as with Commerce's non-market economy presumption, under section 773(c) of the Act, a finding of a cost-based PMS is also an acknowledgement that there are ''non-market principles'' at play, and therefore, like the non-market economy presumption, when Commerce finds a cost-based PMS to exist, the burden to prove that it no longer exists in future segments should lie with the alleged recipients and beneficiaries of the cost-based PMS and not with Commerce.

This proposed rule does not include a general cost-based PMS rebuttable presumption because, unlike a non-market economy designation, which applies to the entire economy, a cost-based PMS is focused on a distinct circumstance or set of circumstances, and may be particular to certain products or individuals one year, and then not apply to those products or individuals in the subsequent years. In fact, it is our observation that it is not uncommon for the existence of a PMS to change from period to period. Although ''non-market principles'' can be at play in finding that a PMS distorts costs, and some particular market situations may reliably continue from year to year, given the wide variety of types of particular market situations, the multiple possible PMS beneficiaries, and the constantly changing nature of

Therefore, Commerce may consider if non-countervailable government assistance satisfies the criteria of a cost-based PMS.

certain cost-based particular market situations, we determine that incorporating a general and overarching rebuttable presumption into these regulations for all cost-based particular market situations is inappropriate at this time.

Finally, there were several comments on the appropriate analysis which Commerce should apply in determining if a PMS is distorting the cost of production. There were certain commenters that suggested that if Commerce qualitatively determines the existence of a market situation, Commerce should presume from that conclusion that distortions in prices or costs are caused by the PMS. On the other hand, there were commenters that suggested that Commerce must prove a ''causal link'' between a PMS and cost distortions to prove that the costs do not accurately reflect the cost of production in the ordinary course of trade. One commenter even suggested that a cost-based PMS can *only* exist if it is so distortive as to create a price-based PMS that prevents a proper comparison, while other commenters expressed concerns with Commerce's description in its *PMS ANPR* of the Federal Circuit's analysis in *NEXTEEL* with respect to countervailable subsidies, suggesting that Commerce incorrectly claimed that the Federal Circuit required a ''pass-through'' analysis for Commerce to find the existence of a PMS under those circumstances.

In considering comments on the appropriate standard that Commerce should apply in determining whether a PMS is distorting the cost of production, we recognize the real-world complexities and effects of particular market situations in concluding that a direct cause and effect analysis is simply not realistic or appropriate. For example, prices for specific inputs might not be publicly available for comparison purposes, or it might be impossible to precisely quantify the distortive effects of unenforced intellectual property protections, the failure to impose environmental protections, the use of slave or forced labor, or the imposition of domestic content or technology transfer requirements. Unquestionably, all these circumstances could contribute to market distorting situations, but adopting a direct ''cause and effect'' or ''pass through'' analysis would allow many of those market-distorting situations to avoid being addressed as a PMS. Accordingly, we have not adopted a ''cause and effect'' standard in this proposed rule to identify the impact of a PMS on cost (and input price) distortions.

On the other hand, neither have we adopted a presumption that all potential cost-based particular market situations distort costs absent information on the record that would support a claim of such distortion or suggest that an impact on costs or prices occurred or might be occurring. We do not believe such a presumption would be reasonable given the fact-intensive nature of PMS determinations.

Accordingly, under proposed paragraph (g) of § 351.416 Commerce will consider, on a case-by-case basis, all relevant information on the record pertaining to an alleged cost-based PMS and determine whether it is more likely than not that the alleged market situation is contributing to the distortion of prices or costs in the subject country. Using this ''likely to contribute to price or cost distortions standard,'' Commerce will take into consideration both the nature and details of an alleged PMS, as well as information relative to the costs of production of the subject merchandise or prices and costs of a significant input into the production of the subject merchandise. We believe that such a standard reflects the reality of a cost-based PMS analysis, while still being tied to the relevant evidence on the record pertaining to possible cost or price distortions.[63]

With respect to the Federal Circuit's analysis in *NEXTEEL,* Commerce determined in an antidumping administrative review that the Korean government provided subsidies to producers of hot-rolled steel flat products in Korea, and that those subsidies distorted the market costs of Korean hot-rolled coil (HRC), a significant input into the production of the merchandise under review. Indeed, Commerce concluded in the administrative review that because HRC, as an input, constituted approximately 80 percent of the cost of the subject merchandise, any distortions to the cost of HRC would have a significant impact on the overall production costs of that merchandise. In determining the existence of the countervailable subsidy, Commerce relied on its determination in the preceding investigation, which was based on application of adverse facts available, pursuant to sections 776(a) and (b) of the Act. The Federal Circuit, upon review of the record before it, and the remand redeterminations issued by Commerce in the litigation, concluded that even after the agency provided more analysis on remand, ''the record evidence is at best mixed on whether significant Korean government subsidies existed during the period of review.'' [64] Further, after explaining that Commerce was required to show the subsidies ''affected the price of the input'' to the extent that they ''did 'not accurately reflect the cost of production in the ordinary course of trade,' 19 U.S.C. 1677b(e),'' the Federal Circuit explained that Commerce had neither made a ''finding that any subsidies were passed through to the prices of HRC,'' or, referencing back to the particularity requirement, ''that they affected Korean OCTG producers any more than OCTG producers elsewhere.'' [65]

We agree with the commenters who have explained that the Federal Circuit in this decision was not claiming that Commerce was obligated to apply a ''pass-through'' analysis every time it analyzes a countervailable subsidy to determine if that subsidy has also resulted in a cost-based PMS. We do not believe that the Federal Circuit's statement was intended to create a new obligation for Commerce to apply to allegations that a countervailable subsidy creates a cost-based PMS. Further, there is nothing in the Act, legislative history, or even in the facts of the administrative review which was before the Court in *NEXTEEL* that would suggest that Commerce is required to conduct an analysis which it would not normally even be required to apply in a CVD investigation or administrative review.

However, it is evident that the Federal Circuit did not believe that the conclusory nature of Commerce's analysis of the alleged PMS in the case before it, which was associated with countervailable subsidies to Korean HRC producers, was an adequate basis to determine the existence of that particular cost-based PMS.[66] The Federal Circuit mentioned that evidence was ''at best mixed'' of the continued existence of the subsidies at issue during the period of review, but also highlighted that there was essentially no analysis of the alleged effects of those

[63] We emphasize that our PMS analysis is based on record evidence. Although Commerce does not believe the application of a direct cause-and-effect analysis to particular market situations would satisfy the purpose of the legislation, and could in fact allow programs to go unaddressed that otherwise impact and suppress the costs of production, substantial evidence on the record still must support a determination that a PMS was more likely than not to contribute to distortions in the prices or costs of significant inputs or the cost of producing the subject merchandise. Therefore, Commerce may only find the existence of a PMS if the parties have submitted sufficient record information to demonstrate that the market situation exists, there has been a distortion in costs, and the market situation has more likely than not contributed to that distortion in costs.

[64] *See NEXTEEL,* 28 F.4th at 1235.

[65] *Id.,* 28 F.4th at 1235–36.

subsidies on the input at issue, Korean HRC. In light of the Federal Circuit's expressed concerns in *NEXTEEL,* we propose these regulations to provide a less conclusory and more methodical analysis when examining if a subsidy-based PMS exists. Accordingly, we believe that for most alleged cost-based particular market situations, the incorporation of a ''likely to contribute to price or cost distortions'' step in Commerce's PMS analysis, separate and removed from the identification of the market situation is not only reasonable, but satisfies the Federal Circuit's emphasis that an objective analysis determine if a PMS ''affects'' prices or costs.

15. Benefit—§ 351.503

This proposed rule includes a proposed amendment involving Commerce's CVD benefit regulation at § 351.503. We are proposing that we divide paragraph (c) of § 351.503 into two paragraphs. The first paragraph would incorporate existing paragraph (c), with an additional explanation that Commerce is not required to consider whether there has been any change in a firm's behavior because of a subsidy.

The proposed second paragraph would be new and would explain that when the government provides assistance to a firm to comply with certain government regulations, requirements, or obligations, Commerce will normally only measure the benefit of the subsidy and will not be required to also consider the compliance costs themselves. This proposed paragraph is not intended to change existing § 351.503, which is based on the statutory language within sections 771(5)(C) and 771(6) of the Act and was originally explained by examples in the CVD Preamble explicitly demonstrating this point.[67] However, we are proposing this additional language for clarity on the issue of compliance costs so that parties will understand that if the firm accrues additional costs through compliance with government obligations, those costs need not be part of Commerce's benefit analysis of the subsidy.

16. Loans—§ 351.505

With respect to Commerce's CVD loan regulation, we propose moving current § 351.505(d) to a new § 351.505(e) and adding a new provision in paragraph (d) titled ''Treatment of outstanding loans as grants after three years of no payments of interest or principal.''

Proposed new § 351.505(d) addresses loans upon which there have been no payments of interest and principal over a long period of time. Our current practice is that when we examine these types of loans in which there have been no payments of either interest or principal over an extended period of time we treat them as interest-free loans. It is evident, however, that if the foreign government or a government-owned bank has not collected interest or principal payments on an outstanding loan after a three-year period, the foreign government made a decision to simply not collect that interest or principal at all. We therefore propose that, if no interest and principal payments have been made to the government or a government-owned bank on a loan for three years, Commerce would normally treat the outstanding loan as a grant. To ensure consistency with section 771(5)(E)(ii) of the Act, we also propose that we would not treat this type of loan as a grant if the respondent can demonstrate that this nonpayment of interest and principal is consistent with the terms of a comparable commercial loan that it could obtain on the market.

We propose a three-year period as the triggering time period for treating a loan as a grant. We considered standard practices for the period in which banks write off bad debt; however, these practices did not provide sufficient administrative and public clarity and guidance for purposes of the CVD regulations. For example, according to a survey by the Bank for International Settlements, most jurisdictions do not prescribe a timeline for the write-off of loans, leaving this to the discretion of banks.[68] According to the World Bank Group, loans are usually written off if there are no realistic prospects of recovery.[69] International Financial Reporting Standards (IFRS) 9 requires a whole or partial write-off if ''an entity has no reasonable expectations of recovering the contractual cash flows on a financial asset.'' [70] According to the *Financial Accounting Manual for Federal Reserve Banks, January 2017* at Chapter 81.02, a bank should recognize an allowance for loan loss when it is probable that the bank will be unable to collect all amounts due, including both the contractual interest and principal payments under the loan agreement. Therefore, we propose a three-year period of nonpayment of interest and principal on the outstanding loan to identify when an outstanding loan would be treated as a grant. As noted, respondents may demonstrate that the loan should not be treated as a grant by showing that they could obtain a comparable loan with these terms of nonpayment.

17. Equity—§ 351.507

For Commerce's equity regulation, we propose moving current § 351.507(c), with minor modifications, to a new § 351.507(d) and adding a new provision in paragraph (c) titled ''Outside investor standard.''

The proposed investor standard would codify our long-standing practice in which the analysis of equity is conducted with respect to whether an outside private investor would make an equity investment into that firm under its usual investment practice, not whether a private investor who has already invested would continue to invest. Although not explicitly discussed in the *CVD Preamble,* in our analysis as to whether a firm is equityworthy, Commerce makes a distinction therein between ''inside'' shareholders and private ''outside'' investors.[71] The *CVD Preamble* states that under the *1989 Proposed Regulations,*[72] an equityworthy firm was one that showed ''an ability to generate a reasonable rate of return within a reasonable period of time,'' and in 1998 Commerce codified that understanding in § 351.507(a)(4)(i).[73]

This standard has long been part of Commerce's practice. For example, in 1986, in *Groundfish from Canada,*[74] Commerce found that the company, Fishery Products International Limited (FPIL), was unequityworthy at the time of its reorganization. Although one private investor exchanged debt for an equivalent amount of equity in FPIL at the time of the government equity infusion, we did not consider that transaction to be an appropriate gauge by which to measure the government's infusion because, at that time, it seemed that the private investor's only chance for recovering the money it had already loaned to FPIL was to help it reorganize. Therefore, Commerce recognized that in *Groundfish from Canada* there may be motivations of an inside investor or lender to provide additional equity into a firm to keep the firm from failing in

[67] *See CVD Preamble,* 63 FR 65361.

[68] *See Non-Performing Loan Write-Offs: Practices in the CESEE Region,* Policy Brief—September 2019, World Bank Group, at 4.

[69] *Id.* at 2.

[70] *Id.*

[71] *See CVD Preamble,* 63 FR 65373.

[72] *Id.* (referencing *Notice of Proposed Rulemaking and Request for Public Comments (Countervailing Duties),* 54 FR 23366 (May 31, 1989) (*1989 Proposed Regulations*).

[73] *Id.*

[74] *See Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada,* 51 FR 10041, 10047 (March 24, 1986) (*Groundfish from Canada*).

an attempt to recover a previous investment.

Also in 1986, Commerce explained in *Stainless Plate from the United Kingdom* [75] that examining past investments and sunk costs may be useful tools for corporate management in deciding how long to operate a loss-incurring company, or in evaluating proposed projects, but they are not relevant to the reasonable investor test used in our analysis of equityworthiness.[76]

Commerce provided further explanation regarding the outside investor standard in the 1989 CVD investigation of *Steel Wheels from Brazil*.[77] Commerce explicitly stated that we do not examine equityworthiness based on the motivations of an owner-investor. Commerce explained that a rational investor does not let the value of past investments affect present or future decisions. The decision to invest is dependent only on the marginal return expected from each additional equity investment and these investments should not be affected by past investments or sunk costs.

Subsequently, in 1993, within the General Issues Appendix attached to the *Steel Products from Austria* CVD final determination, Commerce provided further elaboration on the standard and prospective nature of Commerce's equityworthy analysis with respect to similar insider investor arguments raised by various respondents.[78] Commerce stated that the fact that an inside investor may be influenced by other considerations extending beyond the attractiveness of the particular investment cannot be permitted to determine whether or not a subsidy arises out of that new investment. Consequently, the absence or presence of previous investments, and the status of those investments in terms of whether they have generated profits or losses, are extraneous considerations when looking at the equityworthiness of potential additional investments in a firm.

Nearly two decades later, in 2012, in *Refrigerators from Korea,* Commerce did not rely on the equity investments made by private investors that participated with the government in a conversion of debt into equity as a benchmark for measuring equityworthiness.[79] Commerce explained that the requirement for making an equityworthiness determination pursuant to § 351.507(a)(4) is to determine whether a reasonable private investor, at the time the government-provided equity infusion was made, would invest in a firm based on the firm's ability to generate a reasonable rate of return within a reasonable time. The private investors that participated with the government in the debt-to-equity conversions were existing creditors attempting to mitigate their losses from non-performing loans; they were not considering whether or not to purchase shares based on the projected rates of return. Commerce concluded its analysis of the issue by stating that the standard for determining whether a firm is equityworthy is not whether a private investor who already has invested in the firm would continue to invest, but rather whether an outside private investor would make an equity investment.[80]

In nearly 40 years of case precedent, in Commerce's analyses of whether a company is equityworthy and whether an equity investment by the government or an authority provides a benefit, Commerce normally examines the investment from the perspective of whether an outside private investor would make that investment, not from the perspective of whether an investor who already has invested in the firm would continue to make new investments. The actions of a private investor that already has equity or debt in a company that is subject to an equityworthiness examination would be considered from the perspective of a new private investor making an initial investment in the firm and not from the perspective of an owner, shareholder, or creditor of the firm. Accordingly, we have reflected that standard in the proposed modification to the regulation.

The other proposed change to the equity regulation is to modify the allocation period of the benefit. Currently, the benefit conferred by equity will be allocated over the same time period as a non-recurring subsidy under § 351.524(d), which is the average useful life (AUL) of assets. This standard works well for the vast majority of the cases in which Commerce finds a countervailable equity benefit. However, there are cases such as *DRAMs from Korea* [81] where this regulatory standard can lead to a result that appears to be inconsistent with the purpose of the CVD law to provide relief to the domestic industry from unfair and distortive foreign government subsidies.

In *DRAMs from Korea,* Commerce investigated a massive government-led bailout and debt restructuring of the semiconductor manufacturer Hynix Semiconductor, Inc. (Hynix) that was implemented in 2001, to prevent the company's financial collapse. An essential part of this 2001 government-led bailout of Hynix was the conversion of existing debt into equity and the forgiveness of debt. While Commerce found that this massive government bailout provided countervailable subsidies to Hynix in the form of both debt-to-equity conversion and debt forgiveness, the AUL for the dynamic random access memory semiconductors industry was only five years. Therefore, due to the five-year AUL period, the determination that this massive 2001 government bailout of Hynix provided countervailable subsidies to Hynix provided relief to the U.S. industry for only two years after the issuance of the CVD order.

As the administering authority, we have concluded that a situation like that in *DRAMs from Korea,* where a massive countervailable government bailout of a firm or industry will be offset by CVDs for only such a limited period, is unreasonable. Therefore, we propose to modify § 351.507 to state that the benefit conferred by an equity infusion shall be allocated over a period of 12 years, or the same period as a non-recurring subsidy under § 351.524(d), whichever is longer.

We have chosen the allocation period of 12 years in accordance with an analysis of Commerce's CVD measures from 1995 to 2020, conducted by the Congressional Research Service in 2021.[82] According to the Congressional Research Service, the vast majority of U.S. CVD measures during that period were applied to four industries: (1) Base Metals; (2) Products of Chemical and Allied Industries; (3) Resins, Plastics, and Rubber; and (4) Machinery and

[75] *See Stainless Steel Plate from the United Kingdom; Final Results of Countervailing Administrative Review,* 51 FR 44656 (December 11, 1986) (*Stainless Plate from the United Kingdom*).

[76] *See Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37217, 37225 (July 9, 1993) (*Steel Products from Austria*), at the General Issues Appendix.

[77] *See Final Affirmative Countervailing Duty Determination; Steel Wheels from Brazil,* 54 FR 15523, 15529–30 (April 18, 1989) (*Steel Wheels from Brazil*), at Comment 10.

[78] *See Steel Products from Austria,* 58 FR 37225 (General Issues Appendix).

[79] *See Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 77 FR 17410 (March 26, 2012) (*Refrigerators from Korea*), and accompanying IDM at Comment 26.

[80] *Id.*

[81] *See Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea,* 68 FR 37122 (June 23, 2003) (*DRAMs from Korea*), and accompanying IDM at Comment 8.

[82] *See Trade Remedies: Countervailing Duties, Congressional Research Service,* R46882, dated August 23, 2021, at 15, Figure 5 ''CVD Measures By Sector.''

Electrical Equipment.[83] Looking to the Modified Accelerated Cost Recovery Asset Life Table,[84] we determined that those four industries fall under five asset classes, which, when averaged, results in a 12-year class life of asset. Put another way, the AUL for the vast majority of products subject to CVD measures since 1995 has been 12 years. We have concluded that 12 years is a reasonable allocation period for purposes of our CVD calculations on average, and accordingly, have incorporated that allocation period into our regulations.

We expect that a provision such as this will provide equitable relief to the domestic industry from the harm caused by certain foreign government countervailable subsidies and have proposed a similar modification to the debt forgiveness regulation.

18. Debt Forgiveness—§ 351.508

For the debt forgiveness regulation, we propose a modification to § 351.508(c), which currently allocates the benefit of debt forgiveness over the same period of time as a non-recurring subsidy under § 351.524(d). The modification to paragraph (c) would measure the allocation by that period, or over a period of 12 years, whichever allocation period is longer.

The current standard, tied to the AUL of assets, works well for the vast majority of the cases in which Commerce finds a countervailable equity benefit. However, there are cases such as *DRAMs from Korea,*[85] as discussed above, where this regulatory standard leads to a result that appears to be inconsistent with the purpose of the CVD law to provide relief to the domestic industry from unfair and distortive foreign government subsidies.

Therefore, we propose modifying § 351.508(c) of our CVD regulations to state that Commerce will treat the benefit from debt forgiveness as a non-recurring subsidy, and will allocate the benefit to a particular period in accordance with § 351.524(d), or over 12 years, whichever is longer. We explain above why the use of 12 years, which is based on an average of the AULs for the vast majority of products covered by U.S. CVD measures, is reasonable and appropriate. We expect that such a provision will provide equitable relief to the domestic industry from the harm caused by certain foreign government countervailable subsidies. As noted above, this proposed change to the allocation period for a debt forgiveness subsidy is similar to the proposed change to the equity regulation modification of the allocation period of the benefit.

19. Direct Taxes—§ 351.509

For purposes of the CVD regulation addressing direct taxes, we propose adding a new paragraph (d), which addresses income tax-related subsidies that are untied to particular products or markets. In the *CVD Preamble,* Commerce stated that we consider certain subsidies such as payments for plant closures, equity infusions, debt forgiveness, and debt-to-equity conversions, not to be tied to certain products or markets because they benefit all production.[86] Commerce also stated in the *CVD Preamble* that we recognized that there may be scenarios where the attribution rules that are set forth under § 351.525 do not precisely fit the facts of a particular case, and that we are ''extremely sensitive to potential circumvention of the countervailing duty law.'' [87] Moreover, Commerce concluded that if subsidies allegedly tied to a particular product are in fact provided to the overall operations of a company, Commerce will attribute the subsidy over sales of all products by the company.[88] In addition, in the years following the issuance of the current CVD regulations, Commerce determined with respect to a tying claim of tax credits that tax credits reduce a firm's overall tax liability which benefits all of the firm's domestic production and sales.[89]

Therefore, based on the language in the *CVD Preamble* and our experience since the issuance of the current CVD regulations, propose to add a provision to the CVD regulations that, if a program provides for a full or partial exemption, reduction, credit, or remission of an income tax, we will normally consider any benefit not to be tied with respect to a particular market under § 351.525(b)(4) or to a particular product under § 351.525(b)(5). In accordance with this provision, even if subsidies are allegedly tied to a particular product, if they in fact benefit the overall operations of a firm, we will attribute the subsidy to all sales of all the firm's products.

To be clear, these types of direct tax programs reduce or eliminate income taxes paid by a firm. Income taxes are based on a firm's total taxable income which is comprised of the overall tax liability generated from all the firm's domestic production and sales. Thus, these types of direct tax programs benefit the domestic production of a firm overall.

Furthermore, we emphasize that the codification of this practice under § 351.509(d) will not impact the attribution standards for export subsidies and domestic subsidies that are set forth under § 351.525(b)(2) and (3). The determination of whether a program is an export subsidy or domestic subsidy is made solely under the specificity section of the statute at sections 771(5A)(B) and (D) of the Act; therefore, the attribution of export subsidies and domestic subsidies is based on the specificity of a subsidy, not with respect to the standard of whether a benefit from a countervailable subsidy is tied or untied.

20. Export Insurance—§ 351.520

With respect to export insurance, we propose a modification to § 351.520(a) to include a period of time, normally five years, over which Commerce may examine whether premium rates charged were inadequate to cover the long-term operating costs and losses of the program. If they were inadequate to cover such costs and losses during that period of time, then Commerce may determine that a benefit exists.

As Commerce explained in the *CVD Preamble,*[90] this standard of benefit for export insurance is based on paragraph (j) of the Illustrative List.[91] In the *CVD Preamble,* Commerce stated that in determining whether the premiums charged under an export insurance program covered the long-term operating costs and losses of the program, we anticipated that we would continue to make that determination based on the five-year rule.[92] Since

[83] *Id.*

[84] *See* Internal Revenue Service Publication 946 (2021), Table B–2, the Modified Accelerated Cost Recovery Asset Life Table.

[85] *See DRAMs from Korea,* 68 FR 37122 and accompanying IDM.

[86] *See CVD Preamble,* 63 FR 65400.

[87] *Id.*

[88] *Id.*

[89] *See Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 77 FR 75975 (December 26, 2012) (*Washers from Korea*), and accompanying IDM.

[90] *See CVD Preamble,* 63 FR 65385.

[91] *See* Illustrative List of Export Subsidies, annexed to the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures as Annex I (Illustrative List); *see also* SAA at 928 (''Unlike existing section 771(5)(A)(i), new section 771(5) does not incorporate the Illustrative List of Export Subsidies into the statute. The Illustrative List, an annex to the Tokyo Round Code, continues in modified form as Annex I to the Subsidies Agreement. However, the Illustrative List has no direct application to the CVD portion of the Subsidies Agreement. . . . It is the Administration's intent that Commerce adhere to the Illustrative List except where the List is inconsistent with the principles set forth in the implementing bill'').

[92] *See CVD Preamble,* 63 FR 65385.

1998, when the current CVD regulations were published, we have consistently applied a period of five years to analyze whether the premiums charged under an export insurance program are adequate to cover the long-term operating costs and losses of the program.[93] Therefore, we are proposing to amend § 351.520(a) to include the five-year period considered in Commerce's standard export insurance benefit analysis.

Accordingly, any allegation made with respect to an export insurance program should be based on a five-year period to satisfy Commerce's standard benefit analysis for this program.

21. Calculation of Ad Valorem Subsidy Rate and Attribution of Subsidy to a Product—§ 351.525

Commerce proposes a minor change to the language within paragraphs (b)(2) and (3) of § 351.525, which concern the attribution of an export subsidy and a domestic subsidy. Currently under existing § 351.525(b)(2), when Commerce determines that a subsidy is specific within the meaning of sections 771(5A)(A) and (B) of the Act, because the subsidy is in law or fact contingent on export performance, alone or as one of two or more conditions, Commerce will attribute that export subsidy only to products exported by the firm.

Similarly, when Commerce determines that a subsidy program is specific as a domestic subsidy as defined within the meaning of section 771(5A)(D) of the Act, then under existing § 351.525(b)(3), Commerce will attribute that domestic subsidy to all products sold by the firm, including products that are exported.

As currently written, both § 351.525(b)(2) and (3) use the language ''the Secretary will,'' without condition. Under the proposed amendment, the language used in both paragraphs (b)(2) and (3) of § 351.525 will be changed to ''the Secretary will *normally*.'' The change to this section of the regulation would not change our established practice of allocating an export subsidy only to products exported by the firm and allocating domestic subsidies to all products sold by the firm, including exports. The insertion of the word ''normally'' into both paragraphs (b)(2) and (3) would merely ensure that there is no perceived conflict with the language in paragraphs (b)(2) and (3) and the language in § 351.525(b)(7) that allows Commerce to attribute a subsidy to multinational production under extremely limited circumstances. In addition, the proposed insertion of the word ''normally'' into both paragraphs (b)(2) and (3) of § 351.525 indicates a provision of Commerce's discretion.

Commerce recognizes that, over time, governments have developed more complicated and unique subsidy programs around the world, and therefore at some point in the future Commerce may encounter a unique type of subsidy program that warrants an allocation of an export or domestic subsidy in a manner that is otherwise not contemplated by the language of existing § 351.525(b)(2) and (3). Accordingly, we expect that the insertion of the word ''normally,'' as proposed, in the regulation would acknowledge that Commerce retains the flexibility to address the CVD law in a manner that is consistent with the Act, no matter how new or unique the foreign subsidy harming the U.S. industry. By including such language, we would better ensure that the CVD law is applied effectively.

22. Transnational Subsidies—§ 351.527

Finally, Commerce proposes eliminating the current transnational subsidies regulation, but reserving the provision for future consideration. When the current provision was adopted, Commerce explained in the preamble to its regulations that it believed ''neither the successorship of section 701 for Subsidies Code members, nor the repeal of section 303 by the {Uruguay Round Agreements Act}, eliminated the transnational subsidies rule,'' on which it indicated current § 351.527 was based.[94] Commerce also stated at that time that, based on its ''past administrative experience,'' ''the government of a country normally provides subsidies for the general purpose of promoting the economic and social health of that country and its people, and for the specific purpose of supporting, assisting or encouraging domestic manufacturing or production and related activities (including, for example, social policy activities such as the employment of its people).'' [95] Commerce's understanding at the time was that a government ''would not normally be motivated to promote, at what would be considerable cost to its own taxpayers, manufacturing or production or higher employment in foreign countries.'' [96]

Since § 351.527 was adopted, Commerce has observed through its administrative experiences that instances in which a government provides a subsidy that benefits foreign production are far more prevalent. Consequently, the assumptions underlying our interpretation of section 701 of the Act have changed. We now believe that our past interpretation of section 701 of the Act was overly restrictive. A limitation on Commerce's ability to countervail subsidies only if those subsidies were provided to entities of a country solely by the government of that country, when subsidies from other foreign governments would otherwise be determined countervailable under the CVD law and could prove injurious to producers of the domestic like product, is inconsistent with the very purpose of the CVD law, and we do not believe that the language of section 701 of the Act requires such a restrictive interpretation. Accordingly, we are proposing to eliminate the current regulation preventing consideration of allegations of transnational subsidies, and instead reserve the provision for future consideration.

Classifications

Executive Order 12866

The Office of Management and Budget has determined that this proposed rule is significant for purposes of Executive Order 12866.

Executive Order 13132

This proposed rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132 of August 4, 1999, 64 FR 43255 (August 10, 1999).

Paperwork Reduction Act

This proposed rule does not contain a collection of information subject to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Regulatory Flexibility Act

The Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed rule would not have a significant economic impact on a substantial number of small business entities. A summary of the need for, objectives of, and legal basis for this rule is provided in the preamble, and is not repeated here.

The entities upon which this rulemaking could have an impact include foreign governments, foreign exporters and producers, some of whom

[93] *See, e.g., Washers from Korea,* 77 FR 75975; and *Refrigerators from Korea,* 77 FR 17410.

[94] *CVD Preamble,* 63 FR 65404–65405.

[95] *Countervailing Duties, Proposed Rule,* 62 FR 8818, 8847 (Feb. 27, 1997) (referencing the subsidy attribution regulation covering multinational firms).

[96] *See Final Affirmative Countervailing Duty Determination: Certain Steel Products From Austria,* 58 FR 37217, 37231 (Jul. 9, 1993).

are affiliated with U.S. companies, and U.S. importers. Enforcement and Compliance currently does not have information on the number of these entities that would be considered small under the Small Business Administration's size standards for small businesses in the relevant industries. However, some of the entities may be considered small entities under the appropriate industry size standards. Although this proposed rule may indirectly impact small entities that are parties to individual AD and CVD proceedings, it will not have a significant economic impact on any such entities because the proposed rule applies to administrative enforcement actions, only clarifying and establishing streamlined procedures; it does not impose any significant costs on regulated entities. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small business entities. For this reason, an Initial Regulatory Flexibility Analysis is not required and one has not been prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: April 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

For the reasons stated in the preamble, the U.S. Department of Commerce proposes to amend 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. In § 351.104, revise paragraph (a)(1) to read as follows:

§ 351.104 Record of proceedings.

(a) * * *

(1) *In general.* The Secretary will maintain an official record of each antidumping and countervailing duty proceeding. The Secretary will include in the official record all factual information, written argument, or other material developed by, presented to, or obtained by the Secretary during the course of a proceeding that pertains to the proceeding. The official record will include government memoranda pertaining to the proceeding, memoranda of ex parte meetings, determinations, notices published in the **Federal Register**, and transcripts of hearings. The official record will contain material that is public, business proprietary, privileged, and classified. With limited and enumerated exceptions, mere citations to hyperlinks, website Uniform Resource Locators, or other sources of information do not constitute placement of the information from those sources on the official record. To be considered part of the official record, the information itself must be placed on the record. The limited exceptions are as follows: United States statutes and regulations, published legislative history, United States court decisions and orders, certain notices of the Secretary and Commission published in the **Federal Register**, as well as decision memoranda and reports adopted by those notices, and the agreements identified in § 351.101(a). For purposes of section 516A(b)(2) of the Act, the record is the official record of each segment of the proceeding. For a scope, circumvention, or covered merchandise inquiry pertaining to companion antidumping and countervailing duty orders conducted on the record of the antidumping duty segment of the proceeding, pursuant to §§ 351.225, 352.226, and 351.227, the record of the antidumping duty segment of the proceeding normally will be the official record.

* * * * *

■ 3. In § 351.225:

■ a. Revise paragraph (c)(1);

■ b. Add paragraphs (c)(2)(x) and (c)(3);

■ c. Revise paragraphs (d)(1) introductory text and (d)(1)(ii);

■ d. Add paragraph (d)(1)(iii);

■ e. Add introductory text to paragraph (f); and

■ f. Revise paragraphs (l)(1), (m)(2), and (q).

The revisions and additions read as follows:

§ 351.225 Scope rulings.

* * * * *

(c) * * *

(1) *Contents.* An interested party may submit a scope ruling application requesting that the Secretary conduct a scope inquiry to determine whether a product, which is or has been in actual production by the time of the filing of the application, is covered by the scope of an order. If the product at issue has not been imported into the United States, the applicant must provide evidence that the product has been commercially produced and sold. The Secretary will make available a scope ruling application, which the applicant must fully complete and serve in accordance with the requirements of paragraph (n) of this section.

(2) * * *

(x) If the product has not been imported into the United States as of the date of the filing of the scope ruling application:

(A) A statement that the product has been commercially produced;

(B) A description of the countries in which the product is sold; and

(C) Relevant documentation which reflects the details surrounding the production and sale of that product in countries other than the United States.

(3) *Comments on the adequacy of the request.* Within 10 days after the filing of a scope ruling application under paragraph (c)(1) of this section, an interested party other than the applicant is permitted one opportunity to submit comments regarding the adequacy of the scope ruling application.

* * * * *

(d) * * *

(1) *Initiation of a scope inquiry based on a scope ruling application.* Except as provided under paragraph (d)(1)(ii) or (d)(2) of this section, within 30 days after the filing of a scope ruling application, the Secretary will determine whether to accept or reject the scope ruling application.

* * * * *

(ii) If the Secretary issues questions to the applicant seeking clarification with respect to one or more aspects of a scope ruling application, the Secretary will determine whether or not to initiate within 30 days after the applicant files a timely response to the Secretary's questions.

(iii) If the Secretary does not reject the scope ruling application or initiate the scope inquiry within 31 days after the filing of the application or the receipt of a timely response to the Secretary's questions, the application will be deemed accepted and the scope inquiry will be deemed initiated.

* * * * *

(f) *Scope inquiry procedures.* The procedures described in subpart C of this part (§§ 351.301 through 351.308 and 351.312 through 351.313) do not apply to this paragraph (f).

* * * * *

(l) * * *

(1) When the Secretary initiates a scope inquiry under paragraph (b) or (d) of this section, the Secretary will notify the Customs Service of the initiation and direct the Customs Service to continue the suspension of liquidation

of entries of products subject to the scope inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order. Such suspension shall include, but shall not be limited to, entries covered by the final results of administrative review of an antidumping or countervailing duty order (pursuant to § 351.212(b)), automatic assessment (pursuant to § 351.212(c)), a rescinded administrative review (pursuant to § 351.213(d)), and any other entries already suspended by the Customs Service under the antidumping and countervailing duty laws which have not yet been liquidated in accordance with 19 CFR part 159.

* * * * *

(m) * * *

(2) *Companion antidumping and countervailing duty orders.* If there are companion antidumping and countervailing duty orders covering the same merchandise from the samemcountry of origin, the requesting interested party under paragraph (c) of this section must file the scope ruling application pertaining to both orders on the records of both the antidumping duty and countervailing duty proceedings. If the Secretary accepts the scope applications on both records under paragraph (d) of this section, the Secretary will notify the requesting interested party that all subsequent filings should be filed only on the record of the antidumping duty proceeding. If the Secretary determines to initiate a scope inquiry under paragraph (b) or (d) of this section, the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping duty proceeding. Once the Secretary issues a final scope ruling on the record of the antidumping duty proceeding, the Secretary will include on the record of the countervailing duty proceeding a copy of that scope ruling, a copy of the preliminary scope ruling, if one had been issued, and all relevant instructions to the Customs Service.

* * * * *

(q) *Scope clarifications.* The Secretary may issue a scope clarification at any time which provides an interpretation of specific language in the scope of an order and addresses other scope-related issues.

(1) Examples of scope clarifications include, but are not limited to, the following:

(i) Whether a product is covered or excluded by the scope of an order based on previous scope determinations covering the same or similar products;

(ii) Whether a product covered by the scope of an order is not subject to the imposition of antidumping or countervailing duties pursuant to a statutory exception to the trade remedy laws, such as the limited governmental importation exception set forth in section 771(20)(B) of the Act;

(iii) Whether language or descriptors in the scope of an order that are subsequently updated, revised, or replaced, continue to apply to the product at issue. This includes modifications to the language in the scope of an order pursuant to litigation or a changed circumstances review under section 751(b) of the Act, and changes to descriptors such as Harmonized Tariff Schedule classifications and identified industrial standards; and

(iv) Whether certain third country processing is included in the stage of production where the Secretary has determined that the essential component of the product is produced or where the essential characteristics of the product are imparted, pursuant to paragraph (j)(2) of this section, in a previous country-of-origin analysis.

(2) Examples of the forms taken by scope clarifications include, but are not limited to, the following:

(i) An interpretive footnote to the scope when the scope is published or issued in instructions to the Customs Service;

(ii) A memorandum in the context of an ongoing segment of a proceeding; and

(iii) A Notice of Scope Clarification published in the **Federal Register**.

■ 4. In § 351.226:

■ a. Add paragraph (c)(3);

■ b. Revise paragraphs (d)(1) introductory text and (d)(1)(ii);

■ c. Add paragraph (d)(1)(iii);

■ d. Revise paragraph (e)(1);

■ e. Add introductory text to paragraph (f); and

■ f. Revise paragraph (m)(2).

The additions and revisions read as follows:

§ 351.226 Circumvention inquiries.

* * * * *

(c) * * *

(3) *Comments and information on the adequacy of the request.* Within 10 days after the filing of a circumvention inquiry request under paragraph (c)(1) of this section, an interested party other than the requestor is permitted one opportunity to submit comments and new factual information regarding the adequacy of the circumvention inquiry request. Within five days after the filing of new factual information in support of adequacy comments, the requestor is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct that factual information.

(d) * * *

(1) *Initiation of a circumvention inquiry.* Except as provided under paragraphs (d)(1)(ii) and (d)(2) of this section, within 30 days after the filing of a request for a circumvention inquiry, the Secretary will determine whether to accept or reject the request and whether to initiate or not initiate a circumvention inquiry. If it is not practicable to make such determinations within 30 days, the Secretary may extend the 30-day deadline by an additional 15 days if no interested party has filed new factual information in response to the circumvention request, pursuant to paragraph (c)(3) of this section. If interested parties have filed new factual information pursuant to paragraph (c)(3) of this section, the Secretary may extend the 30-day deadline by an additional 30 days.

* * * * *

(ii) If the Secretary issues questions to the requestor seeking clarification with respect to one or more aspects of a circumvention inquiry request, the Secretary will determine whether or not to initiate within 30 days after the requestor files a timely response to the Secretary's questions.

(iii) If the Secretary determines that a request for a circumvention inquiry satisfies the requirements of paragraph (c) of this section, the Secretary will accept the request and initiate a circumvention inquiry. The Secretary will publish a notice of initiation in the **Federal Register**.

(e) * * *

(1) *Preliminary determination.* The Secretary will issue a preliminary determination under paragraph (g)(1) of this section no later than 150 days after the date of publication of the notice of initiation of paragraph (b) or (d) of this section. If the Secretary concludes that an extension of the preliminary determination is warranted, the Secretary may extend that deadline by no more than 90 days.

* * * * *

(f) *Circumvention inquiry procedures.* The procedures described in subpart C of this part (§§ 351.301 through 351.308 and 351.312 through 351.313) do not apply to this paragraph (f).

* * * * *

(m) * * *

(2) *Companion antidumping and countervailing duty orders.* If there are companion antidumping and

countervailing duty orders covering the same merchandise from the same country of origin, the requesting interested party under paragraph (c) of this section must file the request pertaining to both orders on the record of both the antidumping duty and countervailing duty segments of the proceeding. If the Secretary accepts the circumvention requests on both records under paragraph (d) of this section, the Secretary will notify the requesting interested party that all subsequent filings should be filed only on the record of the antidumping duty proceeding. If the Secretary determines to initiate a circumvention inquiry under paragraph (b) or (d) of this section, the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping duty proceeding. Once the Secretary issues a final circumvention determination on the record of the antidumping duty proceeding, the Secretary will include on the record of the countervailing duty proceeding a copy of that determination, a copy of the preliminary circumvention determination, and all relevant instructions to the Customs Service.

* * * * *

■ 5. In § 351.227:

■ a. Add introductory text to paragraph (d); and

■ b. Revise paragraphs (l)(1) and (m)(2).

The addition and revisions read as follows:

§ 351.227 Covered merchandise referrals.

* * * * *

(d) *Covered merchandise inquiry procedures.* The procedures described in subpart C of this part (§§ 351.301 through 351.308 and 351.312 through 351.313) do not apply to this paragraph (d).

* * * * *

(l) * * *

(1) When the Secretary publishes a notice of initiation of a covered merchandise inquiry under paragraph (b)(1) of this section, the Secretary will notify the Customs Service of the initiation and direct the Customs Service to continue the suspension of liquidation of entries of products subject to the covered merchandise inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order. Such suspension shall include, but shall not be limited to, entries covered by a final results of administrative review of an antidumping or countervailing duty order (pursuant to § 351.212(b)), automatic assessment (pursuant to § 351.212(c)), a rescinded administrative review (pursuant to § 351.213(d)), and any other entries already suspended by the Customs Service under the antidumping and countervailing duty laws which have not yet been liquidated in accordance with 19 CFR part 159.

* * * * *

(m) * * *

(2) *Companion antidumping and countervailing duty orders.* If there are companion antidumping and countervailing duty orders covering the same merchandise from the same country of origin, and the Secretary determines to initiate a covered merchandise inquiry under paragraph (b)(1) of this section, the Secretary will initiate and conduct a single inquiry with respect to the product at issue only on the record of the antidumping duty proceeding. Once the Secretary issues a final covered merchandise determination on the record of the antidumping duty proceeding, the Secretary will include on the record of the countervailing duty proceeding a copy of that determination, a copy of the preliminary covered merchandise determination, if one was issued, and all relevant instructions to the Customs Service.

* * * * *

■ 6. In § 351.301, revise paragraph (c)(4) and add paragraph (c)(6) as follows:

§ 351.301 Time limits for submissions of factual information.

* * * * *

(c) * * *

(4) *Factual information placed on the record of the proceeding by the Secretary.* The Secretary may place factual information on the record of the proceeding at any time.

(i) *In general.* For most factual information placed on the record by the Secretary, an interested party is permitted one opportunity to submit factual information to rebut, clarify, or correct factual information placed on the record of the proceeding by the Secretary by a date specified by the Secretary.

(ii) *Agency memoranda from other segments or proceedings following the submission of written arguments.* If, following the submission of written arguments by interested parties, pursuant to § 351.309, the Secretary determines that an agency analysis or calculation memorandum issued by the Secretary in another segment or proceeding is relevant to the ongoing segment of the proceeding, and places the public version of that memorandum on the record of the ongoing segment of the proceeding, the Secretary will identify on the record the issue to which the memorandum is relevant. Interested parties will have one opportunity to provide comments addressing the relevance of the agency analysis or calculation memorandum to the ongoing segment of the proceeding by a date specified by the Secretary. Such response comments shall not be accompanied by new factual information.

* * * * *

(6) *Notices of subsequent authority—*(i) *In general.* If a United States Federal court issues a decision, or the Secretary in another segment or proceeding issues a determination, that an interested party believes is directly relevant to an issue in an ongoing segment of the proceeding, that interested party may submit a Notice of Subsequent Authority with the Secretary. Responsive comments and factual information to rebut or clarify the Notice of Subsequent Authority must be submitted by interested parties no later than five days after the submission of a Notice of Subsequent Authority.

(ii) *Timing restrictions for consideration.* The Secretary will only be required to consider and address a Notice of Subsequent Authority in its final determinations or results of administrative review that is submitted 30 days or more before the deadline for issuing the final determination or results, and rebuttal submissions filed 25 days or more before that same deadline.

(iii) *Contents of a notice of subsequent authority and responsive submissions.* A Notice of Subsequent Authority must identify the Federal court decision or determination by the Secretary in another segment or proceeding that is alleged to be authoritative to an issue in the ongoing segment of the proceeding, provide the date the decision or determination was issued, explain the relevance of that decision or determination to an issue in the ongoing segment of the proceeding, and be accompanied by a complete copy of the Federal court decision or agency determination. Responsive comments must directly address the contents of the Notice of Subsequent Authority and must explain how the responsive comments and any accompanying factual information rebut or clarify the Notice of Subsequent Authority.

■ 7. In § 351.306, revise paragraph (b) to read as follows:

§ 351.306 Use of business proprietary information.

* * * * *

(b) *By an authorized applicant.* An authorized applicant may retain

business proprietary information for the time authorized by the terms of the administrative protective order (APO).

(1) An authorized applicant may use business proprietary information for purposes of the segment of the proceeding in which the information was submitted.

(2) If business proprietary information that was submitted to a segment of the proceeding is relevant to an issue in a different segment of the same proceeding, an authorized applicant may place such information on the record of the subsequent segment as authorized by the APO of the segment where the business proprietary information was submitted.

(3) If business proprietary information that was submitted to a countervailing duty segment of the proceeding is relevant to a subsequent scope, circumvention, or covered merchandise inquiry conducted on the record of the companion antidumping duty segment of the proceeding pursuant to § 351.225(m)(2), § 351.226(m)(2), or § 351.227(m)(2), an authorized applicant may place such information on the record of the companion antidumping duty segment of the proceeding as authorized by the APO of the countervailing duty segment where the business proprietary information was submitted.

(4) If business proprietary information that was submitted to a scope, circumvention, or covered merchandise inquiry conducted on the record of a companion antidumping duty segment of the proceeding pursuant to § 351.225(m)(2), § 351.226(m)(2), or § 351.227(m)(2) is relevant to a subsequent countervailing duty segment of the proceeding, an authorized applicant may place such information on the record of the companion countervailing duty segment of the proceeding as authorized by the APO of the antidumping duty segment where the business proprietary information was submitted.

* * * * *

■ 8. In § 351.308, add paragraph (g) to read as follows:

§ 351.308 Determinations on the basis of facts available.

* * * * *

(g) *Adverse facts available hierarchy in countervailing duty proceedings.* In accordance with sections 776(d)(1)(A) and 776(d)(2) of the Act, when the Secretary applies an adverse inference in selecting a countervailable subsidy rate on the basis of facts otherwise available in a countervailing duty proceeding, the Secretary will normally select the highest program rate available using a hierarchical analysis as follows:

(1) For investigations, conducted pursuant to section 701 of the Act, the hierarchy will be applied in the following sequence:

(i) If there are cooperating respondents in the investigation, the Secretary will determine if a cooperating respondent used an identical program in the investigation and apply the highest calculated above-zero rate for the identical program;

(ii) If no rate exists which the Secretary is able to apply under paragraph (g)(1)(i) of this section, the Secretary will determine if an identical program was used in another countervailing duty proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the identical program;

(iii) If no rate exists which the Secretary is able to apply under paragraph (g)(1)(ii) of this section, the Secretary will determine if there is a similar or comparable program in any countervailing duty proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar or comparable program; and

(iv) If no rate exists which the Secretary is able to apply under paragraph (g)(1)(iii) of this section, the Secretary will apply the highest calculated above-*de minimis* rate from any non-company-specific program in a countervailing duty proceeding involving the same country that the Secretary considers the company's industry could possibly use.

(2) For administrative reviews, conducted pursuant to section 751 of the Act, the hierarchy will be applied in the following sequence:

(i) The Secretary will determine if an identical program has been used in any segment of the proceeding and apply the highest calculated above-*de minimis* rate for any respondent for the identical program;

(ii) If no rate exists which the Secretary is able to apply under paragraph (g)(2)(i) of this section, the Secretary will determine if there is a similar or comparable program within any segment of the same proceeding and apply the highest calculated above-*de minimis* rate for the similar or comparable program;

(iii) If no rate exists which the Secretary is able to apply under paragraph (g)(2)(ii) of this section, the Secretary will determine if there is an identical program in any countervailing duty proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the identical program or, if there is no identical program or above-*de minimis* rate available, determine if there is a similar or comparable program in any countervailing duty proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar or comparable program; and

(iv) If no rate exists which the Secretary is able to apply under paragraph (g)(2)(iii) of this section, the Secretary will apply the highest calculated rate for any non-company-specific program from any countervailing duty proceeding involving the same country that the Secretary considers the company's industry could possibly use.

(3) When the Secretary uses an adverse facts available countervailing duty hierarchy, the following will apply:

(i) The Secretary will treat rates less than 0.5 percent as *de minimis;*

(ii) The Secretary will normally determine a program to be a similar or comparable program based on the Secretary's treatment of the program's benefit;

(iii) The Secretary will normally select the highest program rate available in accordance with the hierarchical sequence, unless the Secretary determines that such a rate is otherwise inappropriate; and

(iv) When applicable, the Secretary will determine an adverse facts available rate selected using the hierarchy to be corroborated in accordance with section 776(c)(1) of the Act.

■ 9. In § 351.408, add paragraph (d) to read as follows:

§ 351.408 Calculation of normal value of merchandise from nonmarket economy countries.

* * * * *

(d) *A determination that certain surrogate value information is not otherwise appropriate*—(1) *In general.* Notwithstanding the factors considered under paragraph (c) of this section, the Secretary may disregard a proposed market economy country value for consideration as a surrogate value if the Secretary determines that evidence on the record reflects that the use of such a value would be inappropriate.

(i) In accordance with section 773(c)(5), the Secretary may disregard a proposed surrogate value if that value is derived from a country that provides broadly available export subsidies, if particular instances of subsidization occurred with respect to that proposed surrogate value, or if that proposed

surrogate value was subject to an antidumping order.

(ii) In addition, the Secretary may disregard a proposed surrogate value if that value is derived from a facility, party, industry, intra-country region or a country with weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, or environmental protections.

(2) *Requirements to disregard a proposed surrogate value based on weak, ineffective, or nonexistent protections.* For purposes of paragraph (d)(1)(ii) of this section, the Secretary will only consider disregarding a proposed market economy country value as a surrogate value of production if the Secretary determines the following:

(i) The proposed surrogate value at issue is for a significant input or labor;

(ii) The proposed surrogate value is derived from one country or an average of values from a limited number of countries; and

(iii) The information on the record supports a claim that the identified weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, or environmental protections undermine the appropriateness of using that value as a surrogate value.

(3) *The use of a surrogate value located in a country which is not at a level of economic development comparable to that of the nonmarket economy.* If the Secretary determines, pursuant to this section, after reviewing all proposed values on the record derived from market economy countries which are at a level of economic development comparable to the nonmarket economy, that no such proposed value is appropriate to value a specific factor of production, the Secretary may use a value on the record derived from a market economy country which is not at a level of economic development comparable to that of the nonmarket economy country as a surrogate to value that specific factor of production.

(4) *The use of a surrogate value not located in a country which is a significant producer of comparable merchandise.* If the Secretary determines, pursuant to this section, after reviewing all proposed surrogate values on the record derived from market economy countries which are significant producers of merchandise comparable to the subject merchandise, that no such proposed value is appropriate to value a specific factor of production, the Secretary may use a value on the record derived from a market economy country which is not a significant producer of merchandise comparable to the subject merchandise as a surrogate to value that specific factor of production.

■ 10. Add § 351.416 to read as follows:

§ 351.416 Determination of a particular market situation.

(a) *In general.* A particular market situation is a distinct circumstance or set of circumstances that does the following, as determined by the Secretary:

(1) Prevents a proper comparison of sales prices in the home market or third country market with export prices and constructed export prices; or

(2) Distorts the cost of production of the merchandise subject to an investigation, suspension agreement, or an antidumping duty order.

(b) *Information reasonably available to the interested party alleging the existence of a particular market situation.* When an interested party files a timely allegation as to the existence of a particular market situation in an antidumping duty proceeding, relevant information reasonably available to that interested party supporting the claim must accompany the allegation. If the particular market situation being alleged is similar to an allegation of a particular market situation made in a previous segment of the same proceeding, the interested party must identify in the filing the facts and arguments which are distinct from those provided in the previous segment.

(c) *A determination that a particular market situation that prevents a proper comparison of prices exists.* The Secretary may find that a particular market situation exists that prevents the proper comparison of prices, identified in paragraph (a)(1) of this section, when a circumstance or set of circumstances prevent or do not permit a proper comparison between sales prices in the home market or third country of the foreign like product and export prices or constructed export prices of the subject merchandise for purposes of an antidumping analysis.

(1) *Examples of particular market situations that prevent a proper comparison in the home market.* Examples of a distinct circumstance or set of circumstances that may prevent a proper comparison of prices in the home market, and are therefore particular market situations, include, but are not limited to, the following:

(i) The imposition of an export tax on subject merchandise;

(ii) Limitations on exports of subject merchandise from the subject country;

(iii) The issuance and enforcement of anticompetitive regulations that confer a unique status on favored producers or that create barriers to new entrants to an industry; and

(iv) Direct government control over pricing of subject merchandise to such an extent that home market prices for subject merchandise cannot be considered competitively set.

(2) *Examples of particular market situations in a third country that may not permit a proper comparison of prices.* The Secretary may determine that third country prices cannot be properly compared to export prices or constructed export prices for reasons similar to those listed in paragraph (c)(1) of this section.

(3) *The prevention of a proper comparison of prices may warrant use of constructed value.* If the Secretary determines that a particular market situation prevents or does not permit a proper comparison of sales prices in the home market or third country with export prices or constructed export prices, the Secretary may conclude that it is necessary to determine normal value by constructing a value in accordance with section 773(e) of the Act and § 351.405.

(d) *A determination that a market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade*—(1) *In general.* For purposes of this paragraph (d)(1), the Secretary will determine that a distinct circumstance or set of circumstances is a market situation such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, if the Secretary determines that the costs of producing subject merchandise or the prices or costs for a significant input (or inputs) used in the production of the subject merchandise are not in accordance with market-based principles, or are distorted, and that it is likely that the distinct circumstance or set of circumstances contributed to the fact that those prices or costs are not in accordance with market-based principles or are distorted.

(2) *Information the Secretary may consider in determining the existence of a market situation.* In determining whether a market situation exists in the subject country such that the cost of materials and fabrication or other processing does not accurately reflect the cost of production in the ordinary course of trade, the Secretary may consider all relevant information placed on the record by interested parties, including, but not limited to, the following:

(i) Comparisons of prices paid for significant inputs used to produce the subject merchandise under the alleged market situation to prices paid for the same input under market-based circumstances, either in the home country or elsewhere;

(ii) Detailed reports and other documentation issued by foreign governments or independent international, analytical or academic organizations indicating considerably lower prices for a significant input in the subject country would likely result from governmental or nongovernmental actions or inactions taken in the subject country or other countries;

(iii) Detailed reports and other documentation issued by foreign governments or independent international, analytical or academic organizations indicating that prices for a significant input have deviated from a fair market value within the subject country, as a result, in part or in whole, of governmental or nongovernmental actions or inactions;

(iv) Agency determinations or results in which the Secretary determined record evidence did or did not support the existence of the alleged particular market situation with regard to the same or similar merchandise in the subject country in previous proceedings or segments of the same proceeding; and

(v) Information that property (including intellectual property), human rights, labor, or environmental protections in the subject country are weak, ineffective, or nonexistent, those protections exist and are effectively enforced in other countries, and that the ineffective enforcement or lack of protections may contribute to distortions in cost of production of subject merchandise or prices or costs of a significant input into the production of subject merchandise in the subject country.

(3) *No restrictions based on lack of precise quantifiable data, hypothetical prices or actions of governments and industries in other market economies.* In determining whether a market situation exists in the subject country such that the cost of materials and fabrication or other processing does not accurately reflect the cost of production in the ordinary course of trade, the Secretary will not be required to consider the following information and associated arguments:

(i) The lack of precision in the quantifiable data relating to the distortion of prices or costs in the subject country;

(ii) The speculated costs of the subject merchandise, or the speculated prices or costs of a significant input into the production of subject merchandise, unsupported by objective data, that a party claims would hypothetically exist in the subject country absent the alleged particular market situation or its contributing circumstances;

(iii) The actions taken or not taken by governments, state enterprises, or other public entities in other market economy countries in comparison with the actions taken or not taken by the government, state enterprise, or other public entity of the subject country, with the exception of information associated with the allegations addressed in paragraph (d)(2)(v) of this section; and

(iv) The existence of historical policies and previous actions taken or not taken by the government or industry in the subject country with respect to the subject merchandise or a significant input into the production of subject merchandise, because the pre-existence of government actions or inactions, or other circumstances, does not make those situations market-based or nullify the distortion of costs during the relevant period of investigation or review.

(e) *A determination that a market situation that does not accurately reflect the cost of production in the ordinary course of trade is particular*—(1) *In general.* For a market situation that does not accurately reflect the cost of production in the ordinary course of trade to be considered particular, the Secretary must determine that it is likely that the distinct circumstance or set of circumstances which contributed to distortions in prices or costs impact only certain products or certain parties in the subject country. In reaching this determination, the following applies:

(i) A particular market situation may exist even if a large number of distinct products or parties are impacted by the circumstance or set of circumstances;

(ii) The same or similar market situations can exist in multiple countries or markets and still be considered particular for purposes of this provision if the Secretary determines that a market situation exists which distorts cost of production for certain products or parties specifically in the subject country; and

(iii) There are varied circumstances in which a market situation in a subject country can be determined to be particular, including a market situation that distorts the cost of production for certain products or for certain importers, producers, exporters, purchasers, users, enterprises, or industries, individually or in combination with other entities.

(2) *Information the Secretary may consider in determining if a market situation is particular.* In determining if a market situation in the subject country is particular in accordance with paragraph (e)(1) of this section, the Secretary may consider all relevant information placed on the record by interested parties, including, but not limited to, the following:

(i) The size and nature of the market situation;

(ii) The volume of merchandise potentially impacted by the price or cost distortions resulting from the market situation; and

(iii) The number and nature of the entities potentially affected by the price or cost distortions resulting from a market situation.

(f) *Adjusting for a particular market situation that does not accurately reflect the cost of production in the ordinary course of trade.* If the Secretary determines a particular market situation exists in the subject country such that the cost of materials and fabrication or other processing does not accurately reflect the cost of production in the ordinary course of trade, in accordance with sections 771(15) and 773(e) of the Act, the Secretary may address distortions to the cost of production in its calculations. If the Secretary is unable to precisely quantify such distortions in the cost of production, based on record information, after consideration of the relevant information that is available, it may use any reasonable methodology to determine an appropriate adjustment to its calculations.

(g) *Examples of particular market situations that may not accurately reflect the cost of production in the ordinary course of trade.* Examples of particular market situations which may distort, or contribute to the distortion of, the cost of production of subject merchandise in the subject country alone, or in conjunction with others, include, but are not limited to, the following:

(1) A significant input into the production of subject merchandise is produced in such amounts that there is considerably more supply than demand in international markets for the input; the record reflects that, regardless of the impact of such overcapacity of the significant input on other countries, such overcapacity is likely to contribute to distortions of the price or cost of that input in the subject country; and those distortions can be addressed by the Secretary in its calculations of the cost of production;

(2) A government, state-owned enterprise, or other public entity in the

subject country owns or controls the predominant producer or supplier of a significant input used in the production of subject merchandise; such ownership or control of the producer or supplier is likely to contribute to price or cost distortions of that input in the subject country; and those distortions can be addressed in the Secretary's calculations of the cost of production;

(3) A government, state-owned enterprise, or other public entity in the subject country intervenes in the market for a significant input into the production of subject merchandise; such intervention is likely to contribute to price or cost distortions of that input in the subject country; and those distortions can be addressed in the Secretary's calculations of the cost of production;

(4) A government in the subject country limits exports of a significant input into the production of subject merchandise; such export limitations are likely to contribute to price or cost distortions of that input in the subject country; and those distortions can be addressed in the Secretary's calculations of the cost of production;

(5) A government in the subject country imposes export taxes on a significant input into the production of subject merchandise; such taxes are likely to contribute to price or cost distortions of that input in the subject country; and those distortions can be addressed in the Secretary's calculations of the cost of production;

(6) A government in the subject country exempts an importer, producer or exporter of the subject merchandise from paying duties or taxes associated with trade remedies established by the government relating to a significant input into the production of subject merchandise;

(7) A government in the subject country rebates duties or taxes paid by an importer, producer or exporter of the subject merchandise associated with trade remedies established by the government related to a significant input into the production of subject merchandise;

(8) A government, state-owned enterprise, or other public entity in the subject country provides financial assistance or other support to the producer or exporter of the subject merchandise, or to a producer or supplier of a significant input into the production of the subject merchandise; such assistance or support is likely to contribute to cost distortions of the subject merchandise or distortions in the price or cost of a significant input into the production of subject merchandise in the subject country; and those distortions can be addressed by the Secretary in its calculations of the cost of production;

(9) A government, state-owned enterprise, or other public entity in the subject country takes actions which otherwise influence the production of the subject merchandise or a significant input into the production of subject merchandise, such as domestic-content and technology transfer requirements; those actions are likely to contribute to cost distortions of the subject merchandise or distortions in the price or cost of a significant input into the production of subject merchandise in the subject country; and such distortions can be addressed in the Secretary's calculations of the cost of production;

(10) A government or other public entity in the subject country does not enforce its property (including intellectual property), human rights, labor, or environmental protection laws and policies, or those laws and policies are otherwise shown to be ineffective with respect to a either a producer or exporter of the subject merchandise, or to a producer or supplier of a significant input into the production of the subject merchandise in the subject country; the lack of enforcement or effectiveness of such laws and policies is likely to contribute to cost distortions of the subject merchandise or distortions in the price or cost of a significant input into the production of subject merchandise; and those distortions can be addressed in the Secretary's calculations of the cost of production;

(11) A government or other public entity does not implement property (including intellectual property), human rights, labor, or environmental protection laws and policies; the absence of such laws and policies is likely to contribute to cost distortions of the subject merchandise, or distortions in the price or cost of a significant input into the production of subject merchandise in the subject country; and those distortions can be addressed by the Secretary in its calculations of the cost of production; and

(12) A business relationship between one or more producers of the subject merchandise and suppliers of significant inputs to the production of the subject merchandise is such that prices of the inputs are not determined in accordance with market-based principles, such as through a strategic alliance or noncompetitive arrangement; such a relationship is likely to contribute to cost distortions of the subject merchandise or distortions in the price or cost of a significant input into the production of subject merchandise in the subject country; and such distortions can be addressed in the Secretary's calculations of the cost of production.

(h) *A particular market situation that does not accurately reflect the cost of production in the ordinary course of trade may contribute to a particular market situation that prevents or does not permit a proper comparison of prices.* If the Secretary determines that a particular market situation exists that does not accurately reflect the cost of production in the ordinary course of trade, the Secretary may consider whether this particular market situation contributes to the circumstance or set of circumstances that prevent, or do not permit, a proper comparison of home market or third country sales prices with export prices or constructed export prices, in accordance with section 771(15) of the Act.

■ 11. In § 351.503, revise paragraph (c) to read as follows:

§ 351.503 Benefit.

* * * * *

(c) *Distinction from effect of subsidy*—(1) *In general.* In determining whether a benefit is conferred, the Secretary is not required to consider the effect or impact of the government action on the firm's performance, including its costs, prices, output, or whether the firm's behavior is otherwise altered.

(2) *Subsidy provided to support compliance with a government-imposed mandate.* When a government provides assistance to a firm to comply with a government regulation, requirement or obligation, the Secretary, in measuring the benefit from the subsidy, will not consider whether the firm incurred a cost in complying with the government-imposed regulation, requirement or obligation.

* * * * *

■ 12. In § 351.505, revise paragraph (d) and add paragraph (e) to read as follows:

§ 351.505 Loans.

* * * * *

(d) *Treatment of outstanding loans as grant after three years of no payments of interest or principal.* With the exception of debt forgiveness tied to a particular loan and contingent liability interest-free loans, addressed in § 351.508 and paragraph (e) of this section, the Secretary will normally treat a loan as a grant if no payments of interest and principal have been made in three years unless the loan recipient can demonstrate that nonpayment is consistent with the terms of a comparable commercial loan it could obtain on the market.

(e) *Contingent liability interest-free loans*—(1) *Treatment as loans.* In the case of an interest-free loan, for which the repayment obligation is contingent upon the company taking some future action or achieving some goal in fulfillment of the loan's requirements, the Secretary normally will treat any balance on the loan outstanding during a year as an interest-free, short-term loan in accordance with paragraphs (a), (b), and (c)(1) of this section. However, if the event upon which repayment of the loan depends will occur at a point in time more than one year after the receipt of the contingent liability loan, the Secretary will use a long-term interest rate as the benchmark in accordance with paragraphs (a), (b), and (c)(2) of this section. In no event may the present value (in the year of receipt of the contingent liability loan) of the amounts calculated under this paragraph exceed the principal of the loan.

(2) *Treatment as grants.* If, at any point in time, the Secretary determines that the event upon which repayment depends is not a viable contingency, the Secretary will treat the outstanding balance of the loan as a grant received in the year in which this condition manifests itself.

■ 13. In § 351.507, revise paragraph (c) and add paragraph (d) to read as follows:

§ 351.507 Equity.

* * * * *

(c) *Outside investor standard.* Any analysis made under paragraph (a) of this section will be based upon the standard of a new private investor. The Secretary normally will consider whether an outside private investor, under its usual investment practice, would make an equity investment in the firm, and not whether a private investor who has already invested in the firm would continue to invest in the firm.

(d) *Allocation of benefit to a particular time period.* The benefit conferred by an equity infusion shall be allocated over a period of 12 years or the same time period as a non-recurring subsidy under § 351.524(d), whichever is longer.

■ 14. In § 351.508, revise paragraph (c)(1) to read as follows:

§ 351.508 Debt forgiveness.

* * * * *

(c) * * *

(1) *In general.* The Secretary will treat the benefit determined under paragraph (a) of this section as a non-recurring subsidy and will allocate the benefit to a particular year in accordance with § 351.524(d), or over a period of 12 years, whichever is longer.

* * * * *

■ 15. In § 351.509, add paragraph (d) to read as follows:

§ 351.509 Direct taxes.

* * * * *

(d) *Benefit not tied to particular markets or products.* If a program provides for a full or partial exemption, reduction, credit or remission of an income tax, the Secretary normally will consider any benefit to be not tied with respect to a particular market under § 351.525(b)(4) or to a particular product under § 351.525(b)(5).

■ 16. In § 351.511, add paragraph (a)(2)(v) to read as follows:

§ 351.511 Provision of goods or services.

(a) * * *

(2) * * *

(v) *Exclusion of certain prices.* In measuring the adequacy of remuneration under this section, if parties have demonstrated, with sufficient information, that certain prices are derived from countries with weak, ineffective, or nonexistent property (including intellectual property), human rights, labor, or environmental protections, and that the lack of such protections would likely impact such prices, the Secretary may exclude those prices from its analysis.

* * * * *

■ 17. In § 351.520, revise paragraph (a)(1) to read as follows:

§ 351.520 Export insurance.

(a) * * *

(1) In *general.* In the case of export insurance, a benefit exists if the premium rates charged are inadequate to cover the long-term operating costs and losses of the program normally over a five-year period.

* * * * *

■ 18. In § 351.525, revise paragraphs (b)(2) and (3) to read as follows:

§ 351.525 Calculation of *ad valorem* subsidy rate and attribution of subsidy to a product.

* * * * *

(b) * * *

(2) *Export subsidies.* The Secretary will normally attribute an export subsidy only to products exported by a firm.

(3) *Domestic subsidies.* The Secretary will normally attribute a domestic subsidy to all products sold by a firm, including products that are exported.

* * * * *

§ 351.527 [Removed and Reserved]

■ 19. Remove and reserve § 351.527.

■ 20. Add § 351.529 to read as follows:

§ 351.529 Certain fees, fines, and penalties.

(a) *Financial contribution.* When determining if a fee, fine, or penalty that is otherwise due, has been forgone or not collected, within the meaning of section 771(5)(D)(ii) of the Act, the Secretary may conclude that a financial contribution exists if information on the record demonstrates that payment was otherwise required and was not made, in full or in part. In making such a determination, the Secretary will not be required to consider whether the government took efforts to seek payment or grant deferral, or otherwise acknowledged nonpayment, of the fee, fine, or penalty.

(b) *Benefit.* If the Secretary determines that the government has exempted or remitted in part or in full, a fee, fine, or penalty under paragraph (a) of this section, a benefit exists to the extent that the fee, fine or penalty paid by a party is less than if the government had not exempted or remitted that fee, fine, or penalty. Further, if the government is determined to have deferred the payment of the fee, fine, or penalty, in part or in full, a benefit exists to the extent that appropriate interest charges are not collected. Normally, a deferral of payment of fees, fines, or penalties will be treated as a government provided loan in the amount of the payments deferred, according to the methodology described in § 351.505.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2022–0042; FRL–10671–01–R4]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: South Carolina has applied to the EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed South Carolina's application and has determined, subject to public comment, that these changes satisfy all requirements needed to qualify for final authorization. Therefore, in the ''Rules and

Regulations'' section of this **Federal Register**, we are authorizing South Carolina for these changes as a direct final action without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Comments must be received on or before June 8, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2023–0042, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Leah Davis if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

All documents in the docket are listed in the *www.regulations.gov* index. Publicly available docket materials are available electronically in *www.regulations.gov.* For alternative access to docket materials, please contact Leah Davis, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Leah Davis; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; telephone number: (404) 562–8562; fax number: (404) 562–9964; email address: *davis.leah@epa.gov.*

SUPPLEMENTARY INFORMATION: This document proposes to take action on South Carolina's changes to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), as amended. We have published a direct final action authorizing these changes in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final action.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final action and it will not take effect. We would then address all public comments in a subsequent final action and base any further decision on the authorization of the State program changes after considering all comments received during the comment period.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: March 30, 2023.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2023–08991 Filed 5–8–23; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 88, No. 89

Tuesday, May 9, 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 COMMERCE

Foreign-Trade Zones Board

[S–48–2023]

Approval of Subzone Status; Givaudan Fragrances Corporation; Mount Olive, Flanders and Towaco, New Jersey

On March 21, 2023, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the State of New Jersey Department of State, grantee of FTZ 44, requesting subzone status subject to the existing activation limit of FTZ 44, on behalf of Givaudan Fragrances Corporation, in Mount Olive, Flanders and Towaco, New Jersey.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (88 FR 17792–17793, March 24, 2023). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 44P was approved on May 4, 2023, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 44's 407.5-acre activation limit.

Dated: May 4, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–09853 Filed 5–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–809, A–201–805, A–580–809, A–583–814, A–583–008]

Certain Circular Welded Non-Alloy Steel Pipe From Brazil, Mexico, the Republic of Korea, and Taiwan and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of Expedited Fifth Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on certain circular welded non-alloy steel pipe (CWP) from Brazil, Mexico, the Republic of Korea (Korea), and Taiwan, and certain circular welded carbon steel pipes and tubes (pipes and tubes) from Taiwan would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2023, Commerce published the notice of initiation of the sunset reviews of the AD orders on CWP from Brazil, Mexico, Korea, and Taiwan, and pipes and tubes from Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] On January 17 and 18, 2023, Commerce received notices of intent to participate from the domestic interested parties [2] for each of the *Orders,*[3] as required by 19 CFR 351.218(d)(1)(i).[4] The domestic interested parties claimed domestic interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States. On February 3, 2023, the domestic interested parties submitted a timely substantive response for each of the sunset reviews within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] Commerce did not receive a substantive response from any other interested parties with respect to the *Orders* covered by these sunset reviews. On February 24, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested

[1] *See Initiation of Five-Year (Sunset) Review,* 88 FR 63 (January 3, 2023).

[2] The domestic interested parties consist of Bull Moose Tube Company, Maruichi American Corporation, Nucor Tubular Products Inc. (Nucor), and Zekelman Industries.

[3] *See Notice of Antidumping Duty Orders: Certain Circular Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, Taiwan, and Venezuela and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992) (*CWP Orders for Brazil, Korea, and Mexico* and *CWP Order for Taiwan*); *see also Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Antidumping Duty Order,* 49 FR 19369 (May 7, 1984) (*Pipes and Tubes Order for Taiwan*) (collectively, *Orders*). (The order for Venezuela was revoked on August 22, 2000; *see Revocation of Antidumping Duty Orders: Circular Welded Non-Alloy Steel Pipe and Tube from Venezuela; Small Diameter Standard and Rectangular Pipe and Tube from Singapore; and Oil Country Tubular Goods from Canada and Taiwan,* 65 FR 50954 (August 22, 2000)).

[4] *See* Nucor's Letters, ''Circular Welded Non-Alloy Steel Pipe from Brazil: Notice of Intent to Participate in Sunset Review,'' ''Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of Intent to Participate in Sunset Review,'' ''Circular Welded Non-Alloy Steel Pipe from Taiwan: Notice of Intent to Participate in Sunset Review,'' and ''Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Participate in Sunset Review,'' each dated January 17, 2023; *see also* Domestic Interested Parties' Letters, ''Fifth Five-Year Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Brazil: Notice of Intent to Participate,'' Fifth Five-Year Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of Intent to Participate,'' ''Fifth Five-Year Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from South Korea: Notice of Intent to Participate,'' ''Fifth Five-Year Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Taiwan: Notice of Intent to Participate,'' and ''Fifth Five-Year Review of the Antidumping Duty Order on Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Participate,'' each dated January 18, 2023.

[5] *See* Domestic Interested Parties' Letters, ''Circular Welded Non-Alloy Steel Pipe from Brazil,'' ''Circular Welded Non-Alloy Steel Pipe from Mexico,'' ''Circular Welded Non-Alloy Steel Pipe from South Korea,'' ''Circular Welded Non-Alloy Steel Pipe from Taiwan,'' and ''Circular Welded Carbon Steel Pipes and Tubes from Taiwan,'' each dated February 2, 2023.

parties in any of these sunset reviews.[6] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of these *Orders.* On April 21, 2023, Commerce requested that domestic interested parties provide a new submission with corrected import data for the CWP from Taiwan sunset review as well as the December 2022 import data for both the CWP from Taiwan and the pipes and tubes from Taiwan sunset reviews because the import data submitted for the CWP from Taiwan review was incorrect.[7] On April 24, 2023, the domestic interested parties submitted updated import data for the CWP from Taiwan and the pipes and tubes from Taiwan sunsets reviews.[8]

Scopes of the Orders

CWP Orders for Brazil, Korea, and Mexico

The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). For a full description of the scope of these orders, *see* the Issues and Decision Memorandum.[9]

CWP Order for Taiwan

The products covered by this order are: (1) circular welded non-alloy steel pipes and tubes, of circular cross section over 114.3 millimeters (4.5 inches), but not over 406.4 millimeters (16 inches) in outside diameter, with a wall thickness of 1.65 millimeters (0.065 inches) or more, regardless of surface finish (black, galvanized, or painted), or end-finish (plain end, beveled end, threaded, or threaded and coupled); and (2) circular welded non-alloy steel pipes and tubes, of circular cross-section less than 406.4 millimeters (16 inches), with a wall thickness of less than 1.65 millimeters (0.065 inches), regardless of surface finish (black, galvanized, or painted) or end-finish (plain end, beveled end, threaded, or threaded and coupled). For a full description of the scope of this order, *see* the Issues and Decision Memorandum.

Pipes and Tubes Order for Taiwan

The merchandise covered by this order is certain circular welded carbon steel pipes and tubes from Taiwan, which are defined as: welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter. For a full description of the scope of this order, *see* the Issues and Decision Memorandum

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* A complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNotices/ListLayout.aspx.*

Final Results of Sunset Reviews

Pursuant to sections 751(c) and 752(c) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be up to: 103.38 percent for Brazil, 7.32 percent for Mexico, 1.20 percent for Korea, 27.65 percent for CWP from Taiwan, and 8.91 percent for pipes and tubes from Taiwan.

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218(e)(1)(ii)(C)(2) and 19 CFR 351.221(c)(5)(ii).

Dated: May 3, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scopes of the *Orders*
IV. History of the *Orders*
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins Likely to Prevail
VII. Final Results of Sunset Reviews
VIII. Recommendation

[FR Doc. 2023–09855 Filed 5–8–23; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* Commerce's Letter, ''Sunset Reviews for January 2023,'' dated January 25, 2023.

[7] *See* Memorandum, ''Circular Welded Carbon Non-Alloy Steel Pipe from Taiwan (A–583–814), Correcting Import Data on the Administrative Record,'' dated April 21, 2023.

[8] *See* Domestic Interested Parties' Letter, ''Circular Welded Carbon Steel Pipes Fifth Five-Year Review of the Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe from Taiwan: Updated Import Data,'' dated April 24, 2023, at Exhibit 1; *see also* Memorandum, ''Circular Welded Carbon Steel Pipes and Tubes from Taiwan (A–583–008), Correcting Import Data on the Administrative Record,'' dated April 28, 2023.

[9] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Certain Circular Welded Non-Alloy Steel Pipe from Brazil, Mexico, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Expedited Fifth Sunset Review,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with March anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR

351.213(b), for administrative reviews of various AD and CVD orders with March anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than March 31, 2024.

	Period to be reviewed
AD Proceedings	
BRAZIL: Certain Uncoated Paper, A–351–842	3/1/22–2/28/23
Suzano S.A.[5]	
Sylvamo do Brasil Ltda./Sylvamo Exports Ltda.	
GERMANY: Forged Steel Fluid Blocks, A–428–847	1/1/22–12/31/22
voestalpine Bohler Welding Group GmbH [6].	
INDIA: Certain New Pneumatic Off-The-Road Tires, A–533–869	3/1/22–2/28/23
Aakriti Manufacturing Pvt. Ltd.	
Apollo Tyres Ltd.	
Asian Tire Factory Ltd.	
ATC Tires Private Limited.	
Balkrishna Industries Ltd.[7]	
Cavendish Industries Ltd.	
Ceat Ltd.	
Celite Tyre Corporation.	
Emerald Resilient Tyre Manufacturer.	
HRI Tires India.	
JK Tyre & Industries Ltd.	
John Deere India Pvt. Ltd.	
K.R.M. Tyres.	
Mahansaria Tyres Private Limited.	
MRF Limited.	
MRL Tyres Limited.	
OTR Laminated Tyres (I) Pvt. Ltd.	
Royal Tyres Private Limited.	
Speedways Rubber Company.	
Sun Tyre And Wheel Systems.	
Sundaram Industries Private Limited.	
Tvs Srichakra Limited.	
Tyre Experts LLP.	
Ultra Mile.	
INDIA: Granular Polytetrafluoroethylene Resin, A–533–899	9/2/21–2/28/23
Gujarat Fluorochemicals Limited.	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
PORTUGAL: Certain Uncoated Paper, A–471–807	3/1/22–2/28/23
The Navigator Company, S.A.	
RUSSIA: Granular Polytetrafluoroethylene Resin, A–821–829	9/2/21–2/28/23
HaloPolymer Kirovo-Chepetsk, LLC;[8] HaloPolymer Perm, OJSC; Limited Liability Company First Fluoroplastic Plant; HaloPolymer OJSC; Limited Liability Company Trading House HaloPolymer.	
TAIWAN: Light-Walled Welded Rectangular Carbon Steel Tubing, A–583–803	3/1/22–2/28/23
Hoa Phat Steel Pipe Company Limited.	
THAILAND: Circular Welded Carbon Steel Pipes and Tubes, A–549–502	3/1/22–2/28/23
Apex International Logistics.	
Aquatec Maxcon Asia.	
Asian Unity Part Co., Ltd.	
Better Steel Pipe Company Limited.	
Bis Pipe Fitting Industry Co., Ltd.	
Blue Pipe Steel Center Co. Ltd.	
Chuhatsu (Thailand) Co., Ltd.	
CSE Technologies Co., Ltd.	
Expeditors International (Bangkok).	
Expeditors Ltd.	
FS International (Thailand) Co., Ltd.	
Kerry-Apex (Thailand) Co., Ltd.	
K Line Logistics.	
Oil Steel Tube (Thailand) Co., Ltd.	
Otto Ender Steel Structure Co., Ltd.	
Pacific Pipe and Pump.	
Pacific Pipe Public Company Limited.	
Panalpina World Transport Ltd.	
Polypipe Engineering Co., Ltd.	
Saha Thai Steel Pipe Public Co., Ltd.	
Schlumberger Overseas S.A.	
Siam Fittings Co., Ltd.	
Siam Steel Pipe Co., Ltd.	
Sino Connections Logistics (Thailand) Co., Ltd.	
Thai Malleable Iron and Steel.	
Thai Oil Group.	
Thai Oil Pipe Co., Ltd.	
Thai Premium Pipe Co., Ltd.	
Vatana Phaisal Engineering Company.	
Visavakit Patana Corp., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Corrosion Inhibitors, A–570–122	3/1/22–2/28/23
Alfa Aesar China Chemical Co., Ltd.	
Anhui Trust Chem Co., Ltd.	
Focus Chemical B.V.	
Gold Chemical Limited.	
Haruno Sangyo Kaisha, Ltd.	
Jiangsu Trust Chem Co., Ltd.	
Jiangyin Delian Chemical Co., Ltd.	
Johoku Chemical Co., Ltd.	
Kanghua Chemical Co., Ltd.	
KD Finechem Co., Ltd.	
Nanjing Trust Chem Co., Ltd.	
Nantong Botao Chemical Co., Ltd.	
New Essential Corp.	
Sagar Speciality Chemicals Pvt., Ltd.	
Shanghai Sunwise Chemical Co., Ltd.	
Sinochem Pharmaceutical Co., Ltd.	
Tianjin Jinbin International Trade.	
TotalEnergies Lubrifiants.	
Vcare Medicines.	
Wuxi Base International Trade Co., Ltd.	
Xiamen Amity Industry & Trade Co., Ltd.	
Yasho Industries Pvt. Ltd.	
Zaozhuang Kerui Chemicals Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Vertical Shaft Engines Between 225C and 999CC, and Parts Thereof, A–570–119	3/1/22–2/28/23
Changzhou Kawasaki Engine Co., Ltd.	
Chongqing Dajiang Power Equipment Co., Ltd.	
Chongqing Rato Technology Co., Ltd.	
Chongqing Zongshen General Power Machine Co., Ltd.	
Honda Power Products (China) Co., Ltd.	
Jialing-Honda Motors Co., Ltd.	
Kawasaki Motors Corp., U.S.A.	
Kawasaki Motors Shanghai, Ltd.	
Liquid Combustion Technology, LLC.	

	Period to be reviewed
Loncin Motor Co., Ltd.	
Longwin Power Technology.	
Yamaha Motor Corporation.	
Yamaha Motor (China) Co., Ltd.	
Yamaha Motor Powered Products Jiangsu Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Difluoromethane, A–570–121	3/1/22–2/28/23
Taizhou Qingsong Refrigerant New Material Co., Ltd.	
Zhejiang Sanmei Chemical Industry Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Glycine, A–570–836	3/1/22–2/28/23
Aqua Bond Inc.	
Baoding Mantong Fine Chemistry Co., Ltd.	
Blue Science Ltd.	
GFR Pharmaceuticals, Inc.	
Guangzhou ZIO Chemical Co., Ltd.	
Hebei Huayang Biological Technology Co., Ltd.	
Hebei Pushiyongdao Trade Co., Ltd. (also known as Hebei Pushi Yongdao Trade Co., Ltd.	
Hengshui Changhao Borunke Trade Co., Ltd.	
Jiangsu Inter China Group Corp.	
Keele Warehousing & Logistics Distribution Inc.	
Neptune Supply Chain Technology Shanghai Ltd.	
Ningbo Create-Bio Engineering Co., Ltd.	
Polifar Group Limited.	
Qingdao Haosail Science Co., Ltd.	
Shanghai Yunyuan Trading Co., Ltd.	
Shijiazhuang Dingwei Trading Co., Ltd.	
Shijiazhuang Haitian Amino Acid Co., Ltd.	
Suzhou Win Health International Co., Ltd.	
Yantai Zhaoyi Biotechnology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Pentafluoroethane (R–125), A–570–137	8/17/21–2/28/23
Huantai Dongyue International Trade Co. Ltd.	
Shandong Dongyue Chemical Co., Ltd.	
Zhejiang Sanmei Chemical Ind. Co., Ltd.	
Zhejiang Sanmei Chemical Industry. Co., Ltd.	
Zhejiang Yonghe Refrigerant Co., Ltd.	
CVD Proceedings	
GERMANY: Forged Steel Fluid Blocks, C–428–848	1/1/22–12/31/22
voestalpine Bohler Welding Group GmbH [9].	
INDIA: Certain New Pneumatic Off-The-Road Tires, C–533–870	1/1/22–12/31/22
Aakriti Manufacturing Pvt. Ltd.	
Apollo Tyres Ltd.	
Asian Tire Factory Limited.	
Asiatic Tradelinks Private Limited.	
ATC Tires Private Limited.	
Balkrishna Industries Ltd.	
Cavendish Industries Ltd.	
Ceat Ltd.	
Celite Tyre Corporation.	
Emerald Resilient Tyre Manufacturer.	
Forech India Private Limited.	
HRI Tires India.	
Innovative Tyres & Tubes Limited.	
JK Tyre & Industries Ltd.	
John Deere India Pvt. Ltd.	
K.R.M. Tyres.	
Mahansaria Tyres Private Limited.	
MRF Limited.	
MRL Tyres Limited (Malhotra Rubbers Ltd.).	
Neosym Industry Limited.	
OTR Laminated Tyres (I) Pvt. Ltd.	
Royal Tyres Private Limited.	
Rubberman Enterprises Pvt. Ltd.	
Speedways Rubber Company.	
Sun Tyre And Wheel Systems.	
Sundaram Industries Private Limited.	
Superking Manufacturers (Tyre) Pvt., Ltd.	
TVS Srichakra Limited.	
Ultra Mile.	
INDIA: Granular Polytetrafluoroethylene Resin, C–533–900	7/6/21–12/31/22
Gujarat Fluorochemicals Limited.	
INDIA: Sulfanilic Acid, C–533–807	1/1/22–12/31/22
Government of India.	
RUSSIA: Granular Polytetrafluoroethylene Resin, C–821–830	7/6/21–12/31/22
HaloPolymer Kirovo-Chepetsk, LLC; Joint Stock Company HaloPolymer Perm; Joint Stock Company HaloPolymer; URALCHEM JSC [10].	

	Period to be reviewed
OJSC.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Corrosion Inhibitors, C–570–123	1/1/22–12/31/22
Alfa Aesar China Chemical Co. Ltd.	
Anhui Trust Chem Co., Ltd.	
Nanjing Trust Chem Co., Ltd.	
Jiangsu Trust Chem. Co., Ltd.	
Focus Chemical B.V.	
Gold Chemical Limited.	
Haruno Sangyo Kaisha, Ltd.	
Jiangyin Delian Chemical Co., Ltd.	
Johoku Chemical Co., Ltd.	
Kanghua Chemical Co., Ltd. (formerly, Nantong Kanghua Chemical Co., Ltd.).	
KD Finechem Co., Ltd.	
Nantong Botao Chemical Co., Ltd.; Nantong Yutu Group Co., Ltd.[11].	
New Essential Corp.	
Sagar Speciality Chemicals Pvt., Ltd.	
Shanghai Sunwise Chemical Co., Ltd.	
Sinochem Pharmaceutical Co., Ltd.	
Tianjin Jinbin International Trade.	
TotalEnergies Lubrifiants.	
Vcare Medicines.	
Wuxi Base International Trade Co., Ltd.	
Xiamen Amity Industry & Trade Co., Ltd.	
Yasho Industries Pvt. Ltd.	
Zaozhuang Kerui Chemicals Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Vertical Shaft Engines Between 225C and 999CC, and Parts Thereof, C–570–120	1/1/22–12/31/22
Changzhou Kawasaki Engine Co., Ltd.	
Chongqing Dajiang Power Equipment Co., Ltd.	
Chongqing Rato Technology Co., Ltd.	
Chongqing Zongshen General Power Machine Co., Ltd.	
Honda Power Products (China) Co., Ltd.	
Jialing-Honda Motors Co., Ltd.	
Kawasaki Motors Corp., U.S.A.	
Kawasaki Motors Shanghai, Ltd.	
Liquid Combustion Technology, LLC.	
Loncin Motor Co., Ltd.	
Longwin Power Technology.	
Yamaha Motor Corporation.	
Yamaha Motor (China) Co., Ltd.	
Yamaha Motor Powered Products Jiangsu Co., Ltd.	

Suspension Agreements

None.

[5] Commerce also received a request for review of Suzano Papel e Celulose S.A. However, prior to the period of review, Commerce determined that Suzano S.A. is the successor-in-interest to Suzano Papel e Celulose S.A. *See Certain Uncoated Paper from Brazil: Final Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 55820 (October 7, 2021). Therefore, we are initiating this review on Suzano S.A.

[6] Commerce hereby corrects the name of this company as listed in the *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 15642, 15649 (March 14, 2023).

[7] Subject merchandise produced and exported by Balkrishna Industries Ltd. (BKT) was excluded from the order. *See Certain New Pneumatic Off-the-Road Tires from India: Notice of Correction to Antidumping Duty Order,* 82 FR 25598 (June 2, 2017). Accordingly, Commerce is initiating this administrative review with respect to BKT only for subject merchandise produced in India where BKT acted as either the manufacturer or exporter (but not both).

[8] HaloPolymer Kirovo-Chepetsk, LLC's request for review included HaloPolymer Trading, Inc., which is a U.S. importer. Commerce does not conduct reviews of U.S. importers; *see* 19 CFR 351.213(b)(1).

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

[9] Commerce hereby corrects the name of this company as listed in the *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 15642, 15656 (March 14, 2023).

[10] HaloPolymer Kirovo-Chepetsk, LLC's request for review included HaloPolymer Trading, Inc., which is a U.S. importer. Commerce does not conduct reviews of U.S. importers; *see* 19 CFR 351.213(b)(1).

[11] Commerce previously found Nantong Botao Chemical Co., Ltd. and Nantong Yutu Group Co., Ltd. to be cross-owned. *See Certain Corrosion Inhibitors from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 41960 (July 13, 2020), and accompanying Preliminary Decision Memorandum at 8–9, unchanged in *Certain Corrosion Inhibitors from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 86 FR 7537 (January 29, 2021).

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before

definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule*,[12] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[13]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule*.[14] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[15] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: May 3, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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[12] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[14] *See* section 782(b) of the Act; *see also Final Rule*; and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[15] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–838]

Carbazole Violet Pigment 23 From India: Rescission of Antidumping Duty Administrative Review; 2021–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on carbazole violet pigment 23 from India for the period of review (POR) December 1, 2021, through November 30, 2022, based on the timely withdrawal of the request for review and evidence of no suspended entries during the POR.

DATES: Applicable May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–0574, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the order on carbazole violet pigment 23 from India.[1] On December 22, 2022, Meghmani LLP, an exporter of subject merchandise, and Meghmani Pigments, an importer of subject merchandise, (collectively Meghmani) requested an administrative review of the order for the POR.[2] On December 30, 2022, Navpad Pigments Pvt. Ltd. (Navpad), a producer and exporter of the subject merchandise, requested an administrative review of the order for

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 87 FR 73752 (December 1, 2022).

[2] *See* Meghmani's Letter, ''Request for Administrative Review,'' dated December 2, 2022.

the POR.[3] Pursuant to these requests, Commerce initiated an administrative review with respect to Meghmani and Navpad, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[4] On February 6, 2023, we placed U.S. Customs and Border Protection (CBP) data on the record indicating that Navpad had no entries of subject merchandise during the POR, and permitting parties to comment on the data.[5] On February 15, 2023, Navpad submitted comments on the CBP data placed on the record.[6] On March 8, 2023, Meghmani timely withdrew its request for the review.[7] No other party requested an administrative review of Meghmani. On March 13, 2023, we issued a memorandum notifying the parties of our intention to rescind the administrative review with respect on Navpad based on the fact that it had no suspended entries during the POR.[8] On March 20, 2023, Navpad submitted comments objecting to our rescission intention with respect to it.[9]

Scope of the Order

The products covered by the order are carbazole violet pigment 23. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.[10]

Analysis of Comments Received

Commerce addressed the issue raised in response to its Intent to Rescind Memorandum in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. As stated above, Meghmani withdrew its request for an administrative review by the established 90-day deadline and there were no other requests for review of Meghmani.

Additionally, pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be. Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.[11] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period. As noted above, there were no suspended entries of subject merchandise from Navpad during the POR for Commerce to review.

Based on the foregoing facts, Commerce is rescinding this review in its entirety for Meghmani and Navpad, in accordance with 19 CFR 351.213(d)(1) and (3), respectively.

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period December 1, 2021, through November 30, 2022, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

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

Dated: May 3, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issue
Comment: Rescission of the Administrative Review
V. Recommendation

[FR Doc. 2023–09796 Filed 5–8–23; 8:45 am]

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[3] *See* Navpad's Letter, ''Antidumping Duty Administrative Review Request,'' dated December 30, 2022.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 7060 (February 2, 2023).

[5] *See* Memorandum, ''Customs and Border Protection Data for Respondent Selection,'' dated February 6, 2023.

[6] *See* Navpad's Letter, ''Comments on CBP Data and Respondent Selection,'' dated February 15, 2023.

[7] *See* Meghmani's Letter, ''Withdrawal of Request for Administrative Review,'' dated March 8, 2023.

[8] *See* Memorandum, ''Intent to Rescind Review,'' dated March 13, 2023 (Intent to Rescind Memorandum).

[9] *See* Navpad's Letter, ''Comments in Notice of Intent to Rescind,'' dated March 20, 2023.

[10] *See* Memorandum, ''Issues and Decision Memorandum for the Rescission of the Antidumping Duty Administrative Review: Carbazole Violet Pigment 23 from India; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

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

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–884]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2020

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers/exporters of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea) received net countervailable subsidies at *de minimis* rates during the period of review (POR) January 1, 2020, through December 31, 2020.

DATES: Applicable May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Kelsie Hohenberger or Nathan James, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2517 or (202) 482–5305, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this review on November 4, 2022.[1] On February 13, 2023, Commerce extended the deadline for the final results of this administrative review until May 3, 2023.[2] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3]

Scope of the Order [4]

The merchandise covered by this *Order* is hot-rolled steel. For a complete description of the scope of this *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all issues raised in interested parties' case briefs in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised by parties, to which Commerce responded in the Issues and Decision Memorandum, is provided as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in October 2022, Commerce conducted an on-site verification of the subsidy information reported by Hyundai Steel.[5] We used standard on-site verification procedures, including an examination of relevant accounting records and original source documents provided by the respondent.

Changes Since the Preliminary Results

After evaluating the comments received from interested parties and record information, we have made certain changes to our analysis, but have made no changes to the net subsidy rates calculated for Hyundai Steel Company (Hyundai Steel) and POSCO. For a discussion of these comments, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a description of the methodology underlying Commerce's conclusions, *see* the Issues and Decision Memorandum.

Final Results of Review

We determine that, for the period January 1, 2020, through December 31, 2020, the following net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Hyundai Steel Company [7]	0.32 (*de minimis*)
POSCO [8]	0.33 (*de minimis*)

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions directing CBP to liquidate entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2020, through December 31, 2020, for the above-listed companies without regard to countervailing duties. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

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[1] *See Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 2020,* 87 FR 66648 (November 4, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Extension of Deadline for Final Results of Countervailing Duty Administrative Review,'' dated February 13, 2023.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2020 Administrative Review of the Countervailing Duty Order on Certain Hot-Rolled Steel Flat Products from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders,* 81 FR 67960 (October 3, 2016) (*Order*).

[5] *See* Memorandum, ''Verification of the Questionnaire Responses of Hyundai Steel Company,'' dated December 1, 2022.

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] This company was also referenced as ''Hyundai Steel Co., Ltd'' in the initiation notice. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 67685 (November 29, 2021). As discussed in the Issues and Decision Memorandum, Commerce has found the following company to be cross-owned with Hyundai Steel: Hyundai Green Power Co.

[8] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with POSCO: Pohang Scrap Recycling Distribution Center Co. Ltd.; POSCO Chemical; POSCO M-Tech; POSCO Nippon Steel RHF Joint Venture Co., Ltd.; POSCO Steel Processing and Service; and POSCO Terminal. The POSCO subsidy rate applies to all cross-owned companies. We note that POSCO has an affiliated trading company through which it exported certain subject merchandise, *i.e.,* POSCO International Corporation (POSCO International). POSCO International was not selected as a mandatory respondent, but was examined in the context of POSCO. Therefore, there is not an individually-established rate for POSCO International; POSCO International's subsidies are accounted for in terms of POSCO's total subsidy rate. Entries of subject merchandise exported by POSCO International will receive the rate of the producer listed on the entry form with U.S. Customs and Border Protection (CBP). Thus, the subsidy rate applied to POSCO (and POSCO's cross-owned affiliates) is also applied to POSCO International for entries of subject merchandise produced by POSCO.

Cash Deposit Requirements

For the companies listed above for which the subsidy rates are *de minimis,* no cash deposit will be required of these companies on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific rate applicable to the company or the all-others rate, as appropriate. These cash deposits, when imposed, shall remain in effect until further notice.

Administrative Protective Order

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

Notice to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: May 3, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Period of Review
V. Subsidies Valuation Information
VI. Analysis of Programs
VII. Discussion of the Issues
Comment 1: Whether Electricity Is Subsidized by the Government of Korea (GOK)
Comment 2: Whether the GOK's Port Usage Rights Program Provides a Countervailable Benefit
Comment 3: Whether the Korea Emissions Trading System (K–ETS) Program Is Countervailable
Comment 4: Whether Commerce Should Modify its Benefit Calculation Relating to the Provision of K–ETS Permits
Comment 5: Whether Hyundai Steel Company (Hyundai Steel) and Hyundai Green Power Co. (HGP) Are Cross-Owned
Comment 6: Whether Commerce Was Required by Law to Conduct Verification of the GOK and POSCO
Comment 7: Whether Local Tax Exemptions under Restriction of Special Location Taxation Act (RSLTA) Article 57–2 Are Countervailable
Comment 8: Whether Certain of POSCO Chemical Co., Ltd.'s (POSCO Chemical) Local Tax Exemptions under RSLTA Article 78 Are Tied to Non-Subject Merchandise
Comment 9: Whether Certain Quota Tariff Import Duty Exemptions under Article 71 of the Customs Act Are Tied to Non-Subject Merchandise
VIII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–820]

Certain Small Diameter Seamless Carbon and Alloy Standard, Line and Pressure Pipe From Germany: Final Results of Expedited Fifth Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on certain small diameter seamless carbon and alloy standard, line, and pressure pipe (seamless pipe) from Germany would likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Tyler R. Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1121.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1995, Commerce published the AD order on seamless pipe from Germany.[1] On January 3, 2023, Commerce published the notice of initiation of the sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On January 18, 2023, Commerce received a notice of intent to participate from Vallourec Star, L.P. (Vallourec), a U.S. producer of seamless pipe, within the 15-day deadline specified in section 771(9)(C) of the Act and 19 CFR 351.218(d)(1)(i).[3] Vallourec claimed interested party status under section 771(9)(C) of the Act as a domestic producer engaged in the production of seamless pipe in the United States, a domestic like product.[4]

On February 2, 2023, Vallourec submitted a timely and adequate substantive response to the *Initiation Notice* within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from other interested parties, nor was a hearing requested.

On February 24, 2023, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce has conducted an expedited (120-day) sunset review of this *Order.*

Scope of the Order

The product covered by the *Order* is seamless pipe. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete

[1] *See Notice of Antidumping Duty Order and Amended Final Determination: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany,* 60 FR 39704 (August 3, 1995) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 88 FR 63 (January 3, 2023) (*Initiation Notice*).

[3] *See* Vallourec's Letter, ''Notice of Intent to Participate in the Fifth Five-Year Review of the Antidumping Duty Order on Seamless Line and Pressure Pipe from Germany,'' dated January 18, 2023.

[4] *Id.* at 2.

[5] *See* Commerce's Letter, ''Sunset Review for January 2023,'' dated February 24, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Fifth Sunset Review of the Antidumping Duty Order on Certain Small Diameter Seamless Carbon and Alloy Standard, Line and Pressure Pipe from Germany,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the margin of dumping likely to prevail would be up to 57.72 percent.

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, 19 CFR 351.218(e)(1)(ii)(C)(2) and 19 CFR 351.221(c)(5)(ii).

Dated: May 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. History of the *Order*
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margin of Dumping Likely To Prevail
VII. Final Results of Review
VIII. Recommendation

[FR Doc. 2023–09798 Filed 5–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Final Programmatic Environmental Assessment for Funding Aquaculture Research and Development Projects and Finding of No Significant Impact

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability of a final programmatic environmental assessment for funding aquaculture research and development projects and finding of no significant impact.

SUMMARY: The National Oceanic and Atmospheric Administration, Office of Oceanic and Atmospheric Research (OAR) is issuing this notice to inform the public of the availability of the final programmatic environmental assessment (PEA) to fund aquaculture research and development projects and Finding of No Significant Impact (FONSI).

ADDRESSES: The Final PEA and FONSI may be viewed or downloaded from the NOAA Sea Grant NEPA and Environmental Compliance web page: *https://seagrant.noaa.gov/NEPA.*

FOR FURTHER INFORMATION CONTACT: Rebecca Briggs, Scientific Program Manager, National Sea Grant Office (Phone Number: (302) 927–2351) (Email: *rebecca.briggs@noaa.gov*).

SUPPLEMENTARY INFORMATION: In preparing the Final PEA, OAR has considered 18 public comments received on the Draft PEA, which was published in the **Federal Register** (87 FR 68441) for a 30-day comment period, from November 15, 2022 to December 15, 2022.

The Proposed Action analyzed in the Final PEA is to issue Federal financial assistance awards through existing programs within the OAR (Sea Grant, SBIR) and NMFS Office of Aquaculture (OAQ) for aquaculture research and development projects involving farmed and wild populations of aquatic organisms in permitted aquaculture facilities and sites, research laboratories, the Great Lakes and associated freshwater areas, and ocean and coastal environments within the Exclusive Economic Zone (EEZ) of the United States and its territories.

The Final PEA incorporates, where appropriate, agency and public comments received on the Draft PEA, which was available for public review from November 15, 2022, to December 15, 2022. During the public comment period of the Draft PEA, NOAA received 18 comments. NOAA responses to the public comments are provided in appendix A of the Final PEA. All recommended changes incorporated as a result of comments received were to provide further clarification.

The analysis in the Final PEA and FONSI concludes that none of the project types of the Proposed Action alternative have the potential for significant impacts. The Final PEA assesses the direct, indirect, and cumulative environmental impacts of issuing Federal financial assistance awards for aquaculture research and development projects that fall within the five project types: Outreach, Education, and Planning; Data Analysis and Social Science Research; Laboratory and Rearing Science and Research on Finfish and Shellfish; Field Research and Assessments; and Shellfish Aquaculture Restoration. However, the Final PEA does not predict the impacts of specific projects. Each financial award proposal would be evaluated using this Final PEA on a project-specific basis to determine if it falls within its scope of analysis and impacts. If a project does not fall within the scope of this Final PEA, a separate NEPA review will be conducted.

This document has been prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the 1978 Council on Environmental Quality (CEQ) Regulations (40 Code of Federal Regulations [CFR] 1500–1508), and NOAA policy and procedures (NOAA Administrative Order 216–6A (NAO 216–6A) and its Companion Manual (CM)).

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–09827 Filed 5–8–23; 8:45 am]

BILLING CODE 3510–KD–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 23–C0002]

Generac Power Systems, Inc.

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission publishes in the **Federal Register** any settlement that it provisionally accepts under the

Consumer Product Safety Act. Published below is a provisionally accepted Settlement Agreement with Generac Power Systems, Inc., containing a civil penalty in the amount of $15,800,00.00, subject to the terms and conditions of the Settlement Agreement. The Commission voted unanimously (4–0) to provisionally accept the proposed Settlement Agreement and Order pertaining to Generac Power Systems, Inc.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 24, 2023.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to Comment 23–C0002, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (240) 863–8938 (mobile), (301) 504–7479 (office); email: *cpsc-os@cpsc.gov.*

FOR FURTHER INFORMATION CONTACT: Asha Allam, Trial Attorney, Division of Enforcement and Litigation, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814; *AAllam@cpsc.gov,* 301–504–7402 (office).

SUPPLEMENTARY INFORMATION: The text of the Settlement Agreement and Order appear below.

Dated: May 3, 2023.

Pamela J. Stone,

Acting Secretary.

United States of America

Consumer Product Safety Commission

In the Matter of: GENERAC POWER SYSTEMS, INC.

CPSC Docket No.: 23–C0002

Settlement Agreement

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. 2051 − 2089 (''CPSA''), and 16 CFR 1118.20, Generac Power Systems, Inc. (''Generac''), and the United States Consumer Product Safety Commission (''Commission''), through its staff, hereby enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order resolve staff's charges set forth below.

The Parties

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 CFR 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Generac is a corporation, organized and existing under the laws of the state of Wisconsin, with its principal place of business in Waukesha, Wisconsin.

Staff Charges

4. Between June 2013 and June 2021, Generac manufactured in or imported into the United States, and distributed, offered for sale, and sold approximately 321,000 Generac® or DR® brand 6500-watt and 8000-watt portable generators, unit types XT8000E, XT8000EFI, GP6500, GP6500E, GP8000E, PRO 6500M, PRO 6500E, and HomeLink 6500E in 32 models (''Portable Generators'' or ''Subject Products'').

5. The Subject Products are ''consumer products'' that were ''import[ed]'' and ''distribut[ed] in commerce,'' as those terms are defined or used in sections 3(a)(5), (7), and (9) of the CPSA, 15 U.S.C. 2052(a)(5), (7), and (9). Generac is a ''distributor'' of the Subject Products, as such term is defined in section 3(a)(8) of the CPSA, 15 U.S.C. 2052(a)(8).

Violation of CPSA Section 19(a)(4)

6. The Subject Products contain a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death because an unlocked handle can pinch consumers' fingers against the generator frame when the generator is moved, posing finger amputation and crushing hazards.

7. Beginning in October 2018 and continuing into 2020, Generac received reports from consumers whose fingers were partially amputated or crushed by the unlocked handle of the Subject Products, which constituted grievous bodily injury, as defined in 16 CFR 1115.12(d).

8. During that same time frame, in an effort to prevent the finger amputation and crushing hazard, the Firm began evaluating designs to add a handle hinge guard for existing models of Subject Products, redesigning the handle for new models, adding warning labels near the handle hinge, and revising the owner's manual to include additional instructions and warnings regarding the importance of engaging the locking pin when moving the product.

9. Despite possessing information that reasonably supported the conclusion that the Subject Products contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death, Generac did not immediately report to the Commission.

10. By the time Generac filed an initial report with the Commission under 15 U.S.C. 2064(b) concerning the Subject Products, the Firm had received five reports of consumers suffering finger amputations while attempting to transport the Subject Products that required hospitalization, surgery, and/or sutures and resulted in permanent disfigurement.

11. The Commission and Generac jointly announced the recall of the Subject Products on July 29, 2021 with a repair remedy and instruction to stop using the Subject Products, unless the locking pin has been inserted to secure the handle in place before and after moving the generator.

12. After Generac reported a post-recall incident involving a repaired but unlocked Subject Product, the Commission and Generac jointly re-announced the recall of the Subject Products on November 10, 2022 with a revised repair remedy consisting of a set of spacers to move the handle away from the frame, eliminating the pinch point, and instruction to stop using unrepaired Subject Products, unless the locking pin has been inserted to secure the handle in place before and after moving the generator.

Failure to Timely Report

13. Despite having information reasonably supporting the conclusion that the Subject Products contained a defect or created an unreasonable risk of serious injury or death, Generac did not notify the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3), (4), in violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

14. Because the information in Generac's possession about the Subject Products constituted actual and presumed knowledge, Generac knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

15. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Generac is subject to civil penalties for its knowing violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

Response of Generac

16. This agreement does not constitute an admission by Generac to the staff's charges as set forth in paragraphs 4 through 15 above, including without limitation that the Subject Product contained a defect that

could create a substantial product hazard or created an unreasonable risk of serious injury or death; that Generac failed to notify the Commission in a timely matter in accordance with section 15(b) of the CPSA, 15 U.S.C. 2064(b); and that Generac knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

17. Generac enters into this Agreement to settle this matter and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings. Generac does not admit that it violated the CPSA or any other law, and Generac's willingness to enter into this Agreement and Order does not constitute, nor is it evidence of, an admission by Generac of liability or violation of any law.

Agreement of the Parties

18. Under the CPSA, the Commission has jurisdiction over the matter involving the Subject Products and over Generac.

19. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Generac or a determination by the Commission that Generac violated the CPSA.

20. In settlement of staff's charges, Generac shall pay a civil penalty in the amount of fifteen million, eight hundred thousand dollars ($15,800,000) (''Total Civil Penalty Amount''). The $15,800,000 Payment shall be paid within thirty (30) calendar days after receiving service of the Commission's final Order accepting the Agreement. All payments to be made under the Agreement shall constitute debts owing to the United States and shall be made by electronic wire transfer to the United States via *http://www.pay.gov,* for allocation to, and credit against, the payment obligations of Generac under this Agreement. Failure to make such payment by the date specified in the Commission's final Order shall constitute Default.

21. The Commission or the United States may seek enforcement for any breach of, or any failure to comply with, any provision of this Agreement and Order in United States District Court, to seek relief including, but not limited to, collecting amounts due.

22. All unpaid amounts, if any, due and owing under the Agreement, shall constitute a debt due and immediately owing by Generac to the United States, and interest shall accrue and be paid by Generac at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b) from the date of Default, until all amounts due have been paid in full (hereinafter ''Default Payment Amount'' and ''Default Interest Balance''). Generac shall consent to a Consent Judgment in the amount of the Default Payment Amount and Default Interest Balance, and the United States, at its sole option, may collect the entire Default Payment Amount and Default Interest Balance, or exercise any other rights granted by law or in equity, including, but not limited to, referring such matters for private collection, and Generac agrees not to contest, and hereby waives and discharges any defenses to, any collection action undertaken by the United States, or its agents or contractors, pursuant to this paragraph. Generac shall pay the United States all reasonable costs of collection and enforcement under this paragraph, respectively, including reasonable attorney's fees and expenses.

23. After staff receives this Agreement executed on behalf of Generac, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register**, in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date the Agreement is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

24. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 CFR 1118.20(h). Upon the later of: (i) Commission's final acceptance of this Agreement and service of the accepted Agreement upon Generac, and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect, and shall be binding upon the parties.

25. Effective upon the later of: (1) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon Generac and (2) and the date of issuance of the final Order, for good and valuable consideration, Generac hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in this Agreement:

(i) an administrative or judicial hearing;

(ii) judicial review or other challenge or contest of the Commission's actions;

(iii) a determination by the Commission of whether Generac failed to comply with the CPSA and the underlying regulations;

(iv) a statement of findings of fact and conclusions of law; and

(v) any claims under the Equal Access to Justice Act.

26. Generac shall implement and maintain a compliance program (''Compliance Program'') designed to ensure compliance with the CPSA with respect to any consumer product imported, manufactured, distributed or sold by Generac, which shall contain the following elements:

(i) written standards, policies, and procedures, including those designed to ensure that information that may relate to or impact CPSA compliance are conveyed effectively to personnel responsible for CPSA compliance, whether or not an injury has been reported;

(ii) procedures and systems for tracking and reviewing claims, including warranty claims, and reports for safety concerns and for implementing corrective and preventive actions when compliance deficiencies or violations are identified;

(iii) procedures requiring that information required to be disclosed by Generac to the Commission is recorded, processed, and reported in accordance with applicable law;

(iv) procedures requiring that all reporting made to the Commission is timely, truthful, complete, accurate, and in accordance with applicable law;

(v) procedures requiring that prompt disclosure is made to Generac's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to affect adversely, in any material respect, Generac's ability to record, process and report to the Commission in accordance with applicable law;

(vi) mechanisms to effectively communicate to all applicable Generac employees, through training programs or other means, compliance-related company policies and procedures to prevent violations of the CPSA;

(vii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary;

(viii) Generac's senior management responsibility for, and general board oversight of, CPSA compliance, including the implementation of steps to ensure that incident and injury data

is reviewed and analyzed for purposes of CPSA Section 15b reporting;

(ix) an annual internal audit of the effectiveness of policies, procedures, systems, and training related to CPSA compliance that evaluates opportunities for improvement, deficiencies or weaknesses, and the Firm's overall culture of compliance; and

(x) retention of all CPSA compliance-related records for at least five (5) years, and availability of such records to CPSC staff upon request.

27. Generac shall submit a report under CPSA Section 16(b), sworn to under penalty of perjury:

(i) describing in detail its compliance program and internal controls and the actions Generac has taken to comply with each subparagraph of paragraph 26;

(ii) affirming that during the reporting period, Generac has reviewed its compliance program and internal controls, including the actions referenced in subparagraph (i) of this paragraph, for effectiveness, and that it complies with each subparagraph of paragraph 26, or describing in detail any non-compliance with any such subparagraph; and

(iii) identifying the results of the annual internal audit referenced in paragraph 26(ix) and any changes or modifications made during the reporting period to Generac's compliance program or internal controls to ensure compliance with the terms of the CPSA and, in particular, the requirements of CPSA Section 15 related to timely reporting.

Such reports shall be submitted annually to the Director, Office of Compliance, Division of Enforcement and Litigation, for a period of three (3) years. The first report shall be submitted 30 days after the close of the first 12-month reporting period, which begins on the date of the Commission's Final Order of Acceptance of the Agreement, and successive reports shall be due annually on the same date thereafter. Without limitation, Generac acknowledges and agrees that failure to make such timely and accurate reports as required by this Agreement and Order may constitute a violation of Section 19(a)(3) of the CPSA and may subject the Firm to enforcement under section 22 of the CPSA.

28. Notwithstanding and in addition to the above, Generac shall promptly provide written documentation of any changes or modifications to its compliance program or internal controls and procedures, including the effective dates of the changes or modifications thereto. Generac shall cooperate fully and truthfully with staff and shall make available all non-privileged information and materials and personnel deemed necessary by staff to evaluate Generac's compliance with the terms of the Agreement.

29. The parties acknowledge and agree that the Commission may publicize the terms of the Agreement and the Order.

30. Generac represents that the Agreement:

(i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever;

(ii) has been duly authorized; and

(iii) constitutes the valid and binding obligation of Generac, enforceable against Generac in accordance with its terms. The individuals signing the Agreement on behalf of Generac represent and warrant that they are duly authorized by Generac to execute the Agreement.

31. The signatories represent that they are authorized to execute this Agreement.

32. The Agreement is governed by the laws of the United States.

33. The Agreement and the Order shall apply to, and be binding upon, Generac and each of its parents, successors, transferees, and assigns; and a violation of the Agreement or Order may subject Generac, and each of its parents, successors, transferees, and assigns, to appropriate legal action.

34. The Agreement, any attachments, and the Order constitute the complete agreement between the parties on the subject matter contained therein.

35. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party, for that reason, in any subsequent dispute.

36. The Agreement may not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 CFR 1118.20(h). The Agreement may be executed in counterparts.

37. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Generac agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

Generac Power Systems, Inc.

Dated: 4/20/2023

By: York Ragen,
Generac Power Systems, Inc., Chief Financial Officer.

Dated: 4/20/2023

By: Erika Z. Jones,
Mayer Brown LLP, Counsel to Generac Power Systems, Inc.

U.S. Consumer Product Safety Commission

Mary B. Murphy, Director.
Leah Ippolito, Supervisory Attorney.
Asha Allam, Trial Attorney.

Dated: 4/24/2023

By: Asha Allam,
Trial Attorney, Division of Enforcement and Litigation, Office of Compliance and Field Operations.

United States of America

Consumer Product Safety Commission

In the Matter of: GENERAC POWER SYSTEMS, INC.
CPSC Docket No.: 23–C0002

Order

Upon consideration of the Settlement Agreement entered into between Generac Power Systems, Inc. (''Generac''), and the U.S. Consumer Product Safety Commission (''Commission'' or ''CPSC''), and the Commission having jurisdiction over the subject matter and over Generac, and it appearing that the Settlement Agreement and the Order are in the public interest, the Settlement Agreement is incorporated by reference and it is:

Provisionally accepted and provisional Order issued on the 3rd day of May 2023.

By order of the commission,

Pamela J. Stone,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2023–09820 Filed 5–8–23; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0026]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Satisfactory Academic Progress Policy

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 8, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Satisfactory Academic Progress Policy.

OMB Control Number: 1845–0108.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals and households; private sector; State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 31,575,067.

Total Estimated Number of Annual Burden Hours: 1,383,595.

Abstract: The Department of Education (the Department) is requesting an extension of the current approval of the policies and procedures for determining satisfactory academic progress (SAP) as required in section 484 of the Higher Education Act of 1965, as amended (HEA). A link to the Satisfactory Academic Progress regulations is provided at 34 CFR 668.34 and 34 CFR 600.55.

These regulations identify the policies and procedures to ensure that students are making satisfactory academic progress in their program at a pace and a level to receive or continue to receive title IV, HEA program funds. If there is lapse in progress, the policy must identify how the student will be notified and what steps are available to a student not making satisfactory academic progress toward the completion of their program, and under what conditions a student who is not making satisfactory academic progress may continue to receive title IV, HEA program funds. There have been minor changes to the regulatory language since the last information collection update. The changes do not represent changes to the estimated burden established below.

Dated: May 4, 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. 2023–09795 Filed 5–8–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0080]

Agency Information Collection Activities; Comment Request; IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 July 10, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2023–SCC–0080. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Christine Pilgrim, 202–245–7351.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).

OMB Control Number: 1820–0578.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 61,320.

Abstract: The Individuals with Disabilities Education Improvement Act of 2004, signed on December 3, 2004, became Public Law 108–446. In accordance with 20 U.S.C. 1416(b)(1) and 20 U.S.C. 1442, not later than one year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, each Lead Agency must have in place a performance plan that evaluates the Lead Agency's efforts to implement the requirements and purposes of Part C and describe how the Lead Agency will improve such implementation. This plan is called the Part C State Performance Plan (Part C—SPP). In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) and 20 U.S.C. 1442 the Lead Agency shall report annually to the public on the performance of each Part C program located in the State on the targets in the Lead Agency's performance plan. The Lead Agency shall report annually to the Secretary on the performance of the State under the Lead Agency's performance plan. This report is called the Part C Annual Performance Report (Part C—APR).

Dated: May 4, 2023.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–09817 Filed 5–8–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury and Request for Comment; Correction

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of availability; request for comments: correction.

SUMMARY: On May 2, 2023, the Department of Energy (DOE) published a notice of availability and request for comment on a revision to DOE's 2009 U.S. Department of Energy Interim Guidance on Packaging, Receipt, Management, and Long-Term Storage of Elemental Mercury and Guidance for Short-Term Storage of Elemental Mercury by Ore Processors (May 2019). This document makes corrections to that notice.

FOR FURTHER INFORMATION CONTACT: David Haught at *david.haught@hq.doe.gov* or at U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM–4.22), 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (301) 903–1765.

Correction

In the **Federal Register** of May 2, 2023, in FR Doc. 2023–09301, on page 27496, the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections are corrected as follows:

ADDRESSES: Please direct written comments via one of the following methods:

Email: Send comments to *david.haught@hq.doe.gov.* Please submit comments in Microsoft™ Word, or PDF file format, and avoid the use of encryption. Additional information regarding the Interim Guidance on Packaging, Transportation, Receipt, Management, Short-Term and Long-Term Storage of Elemental Mercury and other related documents is available online at *https://www.energy.gov/em/long-term-management-and-storage-elemental-mercury.*

U.S. Mail: Send comments to the following address: David Haught, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM–4.22), 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: David Haught at *david.haught@hq.doe.gov* at U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM–4.22), 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (301) 903–1765.

Signing Authority

This document of the Department of Energy was signed on May 4, 2023, by Kristen G. Ellis, Acting Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 4, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–09845 Filed 5–8–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–759–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Rate Schedule S–2 Flow Through General Rate Refund Report to be effective N/A.

Filed Date: 5/3/23.

Accession Number: 20230503–5009.

Comment Date: 5 p.m. ET 5/15/23.

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. The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09846 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1811–000]

Sol InfraCo MT1, 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 Sol InfraCo MT1, 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 May 23, 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: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09816 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC23–7–000]

Commission Information Collection Activities (FERC–725A(1B)); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of the information collection FERC 725A(1B)—*Mandatory Reliability Standards for the Bulk Power System.* The Commission published a 60-day notice on March 2, 2023, in the **Federal Register** and received no comments.

DATES: Comments on the collection of information are due June 8, 2023.

ADDRESSES: Send written comments on FERC–725A(1B) (identified by Docket No. IC23–7–000) to the Office of Management and Budget (OMB) through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902–0292 (Mandatory Reliability Standards for the Bulk Power System) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC23–7–000 and FERC–725A(1B)) to the Commission as noted below. Electronic filing through *https://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, Secretary of the Commission,12225 Wilkins Avenue, Rockville, MD 20852.

Please reference the specific collection number(s) (FERC–725A(1B)) and/or title(s) (Communication of Operational Information between Natural Gas Pipelines and Electric Transmission Operators) in your comments.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at: *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select ''Federal Energy Regulatory Commission,'' click ''submit,'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/*ferc-online/overview.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725A(1B), (Mandatory Reliability Standards for the Bulk Power System).

OMB Control No.: 1902–0292.

Type of Request: Three-year extension of the FERC–725A(1B) information collection requirements with no changes to the current reporting and recordkeeping requirements.

Abstract: FERC–725A(1B).[1] Under section 215 of the Federal Power Act (FPA), the Commission proposes to approve Reliability Standards TOP–010–1i (Real-time Reliability Monitoring and Analysis Capabilities) submitted by North American Electric Corporation (NERC). In this order, the Reliability Standards build on monitoring, real-time assessments and support effective situational awareness. The Reliability Standards accomplish this by requiring applicable entities to: (1) Provide notification to operators of real-time monitoring alarm failures; (2) provide operators with indications of the quality of information being provided by their monitoring and analysis capabilities; and (3) address deficiencies in the quality of information being provided by their monitoring and analysis capabilities. FERC–725A(1B) addresses situational awareness objectives by providing for operator awareness when key alarming tools are not performing as intended. These collections will improve real-time situational awareness capabilities and enhance reliable operations by requiring reliability coordinators, transmission operators, and balancing authorities to provide operators with an improved awareness of system conditions analysis capabilities, including alarm availability, so that operators may take appropriate steps to ensure reliability. These functions include planning, operations, data sharing, monitoring, and analysis.

Type of Respondent: Balancing Authority (BA), Transmission Operations (TOP) and Reliability Coordinators (RC).

Estimate of Annual Burden:[2] The Commission estimates the total annual burden and cost for this information collection in the table below.

FERC–725A(1B)—MANDATORY RELIABILITY STANDARDS FOR THE BULK POWER SYSTEM[3]

Entity	Requirements	Number of respondents[4]	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[5]	Total annual burden hours & total annual cost	Cost per respondent ($)
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
BA[6]	Annual reporting	98	1	98	42 hrs.; $3,234.84	4,116 hrs.; $317,014.32	$3,234.84
TOP[7]	Annual reporting	168	1	168	40 hrs.; $3,080.80	6,720 hrs.; $517,574.40	3,080.80
BA/TOP	Annual Record Retention.	266	1	266	2 hrs.; $84.70	532 hrs.; $22,530.20	84.70
Total Burden Hours Per Year (Reporting).						10,836 hrs. $834,588.72	
Total Burden Hours Per Year (Record Retention).						532 hrs.; $22,530.20	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate 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.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09825 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–142–000.

Applicants: Anemoi Energy Storage, LLC.

Description: Anemoi Energy Storage, LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.

Filed Date: 5/3/23.

Accession Number: 20230503–5098.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: EG23–143–000.

Applicants: Ebony Energy Storage, LLC.

Description: Ebony Energy Storage, LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.

Filed Date: 5/3/23.

Accession Number: 20230503–5100.

Comment Date: 5 p.m. ET 5/24/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3145–015.

[1] The 725(1B) collection was created as a temporary collection number originally used at the time of the RD16–6–000, because OMB cannot review two pending requests with the same OMB control no. at a given time. The FERC 725A is again pending at OMB for an unrelated matter, thus we are renewing the temporary number and the related collection at this time.

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to title 5 Code of Federal Regulations 1320.3.

[3] Our estimates are based on the NERC Compliance Registry Summary of Entities and Functions as of November 4, 2022, which indicates there are 266 entities registered as BA and TOP.

[4] The number of respondents is the number of entities in which a change in burden from the current standards to the proposed standards exists, not the total number of entities from the current or proposed standards that are applicable.

[5] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information, as of May 2022 (at *http://www.bls.gov/oes/current/naics2_22.htm,* with updated benefits information for March 2022 at *http://www.bls.gov/news.release/ecec.nr0.htm*), for an electrical engineer (code 17–2071, $77.02/hour), and for information and record clerks record keeper (code 43–4199, $42.35/hour). The hourly figure for engineers is used for reporting; the hourly figure for information and record clerks is used for document retention.

[6] Balancing Authority (BA). The following Requirements and associated measures apply to balancing authorities: Requirement R1: A revised data specification and writing the required operating process/operating procedure; and Requirement R2: quality monitoring logs and the data errors and corrective action logs.

[7] Transmission Operations (TOP). The following Requirements and associated measures apply to transmission operators: Requirement R1: A revised data specification and writing the required operating process/operating procedure; and Requirement R3: alarm process monitor performance logs to maintain performance logs and corrective action plans.

Applicants: AES Alamitos, LLC.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5002.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER12–1777–002.
Applicants: The Dayton Power and Light Company.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5003.
Comment Date: 5 p.m. ET 5/24/23
Docket Numbers: ER18–2303–004; ER11–4055–013; ER12–1566–017; ER12–2498–023; ER12–2499–023; ER13–764–023; ER14–1548–016; ER14–1927–011; ER15–2653–004; ER16–1327–006; ER17–382–008; ER17–383–008; ER17–384–008; ER18–1416–007; ER18–2305–004; ER18–2303–005; ER21–425–004; ER21–848–004; ER23–66–001; ER23–401–001; ER17–2141–006; ER17–2142–006; ER17–2385–004; ER18–2308–004; ER11–3987–018; ER16–1325–006; ER16–1326–006; ER22–2914–001; ER22–2916–001; ER18–855–007; ER23–139–002; ER18–2309–004; ER18–2310–004; ER10–1246–019; ER10–1252–019; ER14–1775–011; ER18–2311–004; ER23–138–002; ER20–2671–005; ER20–2313–001; ER20–2032–002; ER21–2005–001; ER17–1438–003; ER12–2145–007; ER20–2314–001; ER17–2345–002; ER22–2924–001; ER10–2821–008; ER12–1329–008.
Applicants: Wildcat Wind Farm I, LLC, Stony Creek Wind Farm, LLC, RWE Supply & Trading US, LLC, RWE Supply & Trading Americas, LLC, RWE Clean Energy QSE, LLC, RWE Clean Energy O&M, LLC, Radford's Run Wind Farm, LLC, Hickory Park Solar, LLC, Hardin Wind LLC, Boiling Springs Wind Farm, LLC, Water Strider Solar, LLC, Watlington Solar, LLC, SF Wind Enterprises, LLC, SEP II, LLC, RWE Clean Energy Solutions, Inc., RWE Clean Energy Wholesale Services, Inc., Rose Wind Holdings, LLC, Rose Creek Wind, LLC, Pleasant Hill Solar, LLC, Panoche Valley Solar, LLC, Mesquite Solar 5, LLC, Mesquite Solar 4, LLC, Mesquite Solar 3, LLC, Mesquite Solar 2, LLC, Mesquite Solar 1, LLC, K&K Wind Enterprises, LLC, Great Valley Solar 3, LLC, Great Valley Solar 2, LLC, Great Valley Solar 1, LLC, CED Timberland Solar, LLC, Baron Winds LLC, Battle Mountain SP, LLC, Copper Mountain Solar 5, LLC, Garwind, LLC, Bobilli BSS, LLC, CED Wistaria Solar, LLC, CED Ducor Solar 3, LLC, CED Ducor Solar 2, LLC, CED Ducor Solar 1, LLC, Copper Mountain Solar 4, LLC, Campbell County Wind Farm, LLC, CED White River Solar 2, LLC, Copper Mountain Solar 3, LLC, CED White River Solar, LLC, Alpaugh North, LLC, Alpaugh 50, LLC, Copper Mountain Solar 2, LLC, Copper Mountain Solar 1, LLC, Adams Wind Farm, LLC.
Description: Notice of Change in Status of Adams Wind Farm, LLC, et al.
Filed Date: 4/28/23.
Accession Number: 20230428–5727.
Comment Date: 5 p.m. ET 5/19/23.
Docket Numbers: ER19–1179–005.
Applicants: AES ES Gilbert, LLC.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5005.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER19–1474–004.
Applicants: AES Huntington Beach Energy, LLC.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5006.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER20–1620–002.
Applicants: AES Solutions Management, LLC.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5008.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER20–1629–004.
Applicants: AES ES Alamitos, LLC.
Description: Compliance filing: Revised Tariff Sheets for Market-Based Rate Tariffs to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5004.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER21–1735–001.
Applicants: Indianapolis Power & Light Company.
Description: Compliance filing: Revised Tariff Sheets for Market Based Rate to be effective 5/4/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5007.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER23–426–003.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2023–05–03 NAESB Compliance Filing—Part II to be effective 12/31/9998.
Filed Date: 5/3/23.
Accession Number: 20230503–5085.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER23–427–002.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2023–05–03 NAESB Waiver Filing—Part II to be effective N/A.
Filed Date: 5/3/23.
Accession Number: 20230503–5089.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER23–1570–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to WMPA, SA No. 6847; Queue No. AF2–102 to be effective 6/5/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5073.
Comment Date: 5 p.m. ET 5/24/23.
Docket Numbers: ER23–1586–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to NSA, SA No. 6851; AE1–020 to be effective 6/6/2023.
Filed Date: 5/3/23.
Accession Number: 20230503–5040.
Comment Date: 5 p.m. ET 5/24/23.

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: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09814 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–2716–002; ER19–2717–002; ER20–1398–001; ER20–1399–002; ER21–2886–002; ER22–1878–001; ER22–1885–001.

Applicants: South Portland ESS, LLC, Sanford ESS, LLC, Old Middleboro Road Solar, LLC, Rumford ESS, LLC, Ocean State BTM, LLC Madison ESS, LLC, Madison BTM, LLC.

Description: Notice of Change in Status of Madison BTM, LLC, et al.

Filed Date: 4/28/23.

Accession Number: 20230428–5728.

Comment Date: 5 p.m. ET 5/19/23.

Docket Numbers: ER23–1592–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Request to Defer Action-Original WMPA, SA No. 6868; Queue No. AF2–165 to be effective 12/31/9998.

Filed Date: 5/3/23.

Accession Number: 20230503–5071.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1813–000; TS23–4–000.

Applicants: Oxbow Solar Farm 1, LLC, Oxbow Solar Farm 1, LLC.

Description: Request for Temporary Tariff Waiver, et al. of Oxbow Solar Farm 1, LLC.

Filed Date: 5/2/23.

Accession Number: 20230502–5213.

Comment Date: 5 p.m. ET 5/23/23.

Docket Numbers: ER23–1814–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2023–05–02 CSU SISA 744–PSCo 0.0.0—DRAFT to be effective 7/1/2023.

Filed Date: 5/2/23.

Accession Number: 20230502–5212.

Comment Date: 5 p.m. ET 5/23/23.

Docket Numbers: ER23–1815–000.

Applicants: UNITED POWER, INC.

Description: Petition for Limited Waiver of United Power, Inc.

Filed Date: 5/1/23.

Accession Number: 20230501–5568.

Comment Date: 5 p.m. ET 5/22/23.

Docket Numbers: ER23–1816–000.

Applicants: New York Independent System Operator, Inc., New York State Electric & Gas Corporation.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: NYSEG 205 re: Rate Schedule 19 Attachment 1 Formula Rate Protocols and Template to be effective 7/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5038.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1817–000.

Applicants: New York Independent System Operator, Inc., New York State Electric & Gas Corporation.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: RG&E 205 re: Rate Schedule 19 Attachment 1 Formula Rate Protocols and Template to be effective 7/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5042.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1818–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ISA, SA No. 6881; Queue No. AF2–445A to be effective 4/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5046.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1819–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4074 Bowman Wind & Mountrail Wind & Basin SNUFCA to be effective 7/2/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5048.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1820–000.

Applicants: Evergy Kansas Central, Inc., Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Evergy Kansas Central, Inc. submits tariff filing per 35.13(a)(2)(iii: Evergy Kansas Central and Evergy Kansas South Regulatory Asset Recovery Filing to be effective 7/1/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5076.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1821–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 5589; Queue No. AE2–115 to be effective 7/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5097.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1822–000.

Applicants: Appalachian Power Company.

Description: § 205(d) Rate Filing: Amend to Reactive Power Tariff—RS 304 to be effective 7/1/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5117.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1823–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 5588; Queue No. AE2–114 to be effective 7/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5120.

Comment Date: 5 p.m. ET 5/24/23.

Docket Numbers: ER23–1824–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: NYISO 205 filing of Proposed Tariff Revisions re: Retention and Transfer of CRIS to be effective 7/3/2023.

Filed Date: 5/3/23.

Accession Number: 20230503–5144.

Comment Date: 5 p.m. ET 5/24/23.

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: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09808 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–468–000]

Virginia Electric and Power Company; Notice of Petition for Declaratory Order

Take notice that on May 2, 2023, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, Virginia Electric and Power Company d/b/a Dominion Energy Virginia (Dominion Energy Virginia) filed a petition for declaratory order requesting the Commission issue an order stating that its planned liquefied natural gas (LNG) production, storage, and regasification facility in Virginia that would provide back-up fuel for two of Dominion Energy Virginia's combined-cycle natural gas-fired electric generation stations, also located in Virginia, would not be subject to the Commission's jurisdiction under the Natural Gas Act, 15 U.S.C. 717, *et seq.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original copy of the pleading by U.S. mail to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions by any other courier in docketed proceedings should be delivered to, Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 2, 2023.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09809 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–200–000]

Transcontinental Gas Pipe Line Company, LLC, Northern Natural Gas Company; Notice of Application and Establishing Intervention Deadline

Take notice that on April 20, 2023, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251, and Northern Natural Gas Company (Northern Natural), P.O. Box 3330, Omaha, Nebraska 68103, filed an application under sections 7(b) of the Natural Gas Act (NGA), and part 157 of the Commission's regulations to abandon six pipeline segments with different ownership interest that account for approximately 32.1 miles of natural gas pipelines located in Louisiana state waters offshore of Terrebonne Parish and within the Pelto and Ship Shoal Blocks of federal offshore waters. Transco states that the requested abandonment will have no impact on the daily design capacity or operating conditions of Transco's and Northern's pipeline systems, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Nick Baumann, Regulatory Analyst, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251, by telephone at (281) 714–7056 or by email at *Nick.Baumann@Williams.com* for Transco; or Mike Loeffler, Senior Director, Certificates and External Affairs, Northern Natural Gas Company, P.O. Box 3330, Omaha, Nebraska 68103–0330, by telephone at (402) 398–7103 or by email at *Mike.Loeffler@nngco.com* for Northern.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Water Quality Certification

Transco stated that a water quality certificate under section 401 of the Clean Water Act is required for the project from Louisiana Department of Environmental Quality. The request for certification must be submitted to the certifying agency and to the Commission concurrently. Proof of the certifying agency's receipt date must be filed no later than five (5) days after the request is submitted to the certifying agency.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 24, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the

[1] 18 CFR (Code of Federal Regulations) 157.9.

NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is May 24, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is May 24, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/how-guides*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 24, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–200–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–200–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To send via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FERCOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served to the applicant by mail to: Nick Baumann, Regulatory Analyst, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251, by telephone at (281) 714–7056 or by email (with a link to the document) at *Nick.Baumann@Williams.com* for Transco; or Mike Loeffler, Senior Director, Certificates and External Affairs, Northern Natural Gas Company, P.O. Box 3330, Omaha, Nebraska 68103–0330, by telephone at (402) 398–7103 or by email (with a link to the document) at *Mike.Loeffler@nngco.com* for Northern.

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *http://www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *https://www.ferc.gov/ferc-online/overview*.

Intervention Deadline: 5:00 p.m. Eastern Time on May 24, 2023.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09811 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1812–000]

Sunflower Energy Center, 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 Sunflower Energy Center, 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 May 23, 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 roceedings 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: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09815 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–194–000]

Transcontinental Gas Pipeline Company, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on April 19, 2023 Transcontinental Gas Pipe Line Company, LLC, (Transco) P.O. Box 1396, Houston, Texas 77251–1396, filed an application under section 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157, Federal Energy Regulatory Commission's (Commission) requesting the authorization to construct, install, modify, operate and maintain its Alabama Georgia Connecter Project located at Marengo and Randolph Counties, Alabama and Coweta, Henry, and Walton Counties, Georgia which will provide an additional 63,800 dekatherms per day of firm transportation service to Transco's Station 85 to multiple existing delivery locations on the Transco Mainline and Transco's Georgia Extension Lateral.

Specifically, Transco is requesting approval to (1) re-wheel two existing compressor units at its Compressor station (CS) 90 in Marengo County, Alabama; (2) add 3,865 Horsepower (hp) by upgrading two existing compressor units at its CS 110 in Randolph County, Alabama; (3) re-wheel three existing compressor units at its Compressor station 115 in Coweta County, Georgia; (4) add 5,000 hp by replacing one compressor unit at its Compressor station 120 in Henry County, Georgia; (5) increase the certificated horsepower from 49,800 hp to 55,800 hp by increasing the currently certificated hp of an existing compressor unit, and an associated re-wheel at its CS 125 in Walton County, Georgia; and (6) various modifications to ancillary equipment and station piping at the previously listed compressor stations. The total estimated cost of the project is approximately $70.7 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Jordan Kirwin, Director, Rate & Regulatory, Transcontinental Gas Pipeline Company, LLC, Post Office Box 1396, Houston, Texas 77251–1396; by phone at (346) 439–0447 or by email to *Jordan.Kirwin@Williams.com*.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of

[1] 18 CFR (Code of Federal Regulations) 157.9.

this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 24, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is May 24, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is May 24, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/how-guides.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 24, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–194–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–194–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To send via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FERCOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served to the applicant by mail to: Jordan Kirwin, Director, Rates & Regulatory, Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, Texas 77251–1396; or by email (with a link to the document) at *Jordan.Kirwin@Williams.com.*

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *http://www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *https://www.ferc.gov/ferc-online/overview.*

Intervention Deadline: 5:00 p.m. Eastern Time on May 24, 2023.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09810 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1810–000]

Indian Creek Solar Farm 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 Indian Creek Solar Farm 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 May 23, 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: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09807 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC23–8–000]

Commission Information Collection Activities (FERC–725T); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of the information collection FERC–725T—*Mandatory Reliability Standards for the Bulk-Power System: Texas Reliability Entity (TRE) Reliability Standards.* The Commission published a 60-day notice on March 2, 2023, in the **Federal Register** and received no comments.

DATES: Comments on the collection of information are due June 8, 2023.

ADDRESSES: Send written comments on FERC–725T (identified by Docket No. IC23–8–000) to the Office of Management and Budget (OMB) through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902–0273 (Mandatory Reliability Standards for the Bulk Power System) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC23–8–000 and FERC–725T) to the Commission as noted below. Electronic filing through *https://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Please reference the specific collection number(s) (FERC–725T) and/or title(s) (Communication of Operational Information between Natural Gas Pipelines and Electric Transmission Operators) in your comments.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at: *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select ''Federal Energy Regulatory Commission,'' click ''submit,'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725T, *Mandatory Reliability Standards for the Bulk-Power System: Texas Reliability Entity (TRE) Reliability Standards.*

OMB Control No.: 1902–0273.

Type of Request: Three-year extension of the FERC–725T information collection requirements with no changes to the current reporting requirements.

Abstract: TRE Reliability Standards apply to entities registered as Generator Owners (GOs), Generator Operators

(GOPs), and Balancing Authorities (BAs) within the Texas Reliability Entity region.

The information collection requirements entail the setting or configuration of the Control System software, identification and recording of events, data retention, and submitting frequency measurable events to the compliance enforcement authority (Regional Entity or NERC).

Submitting frequency measurable events—The BA is required to identify and post information regarding Frequency Measurable Events (FME). Further, the BA must calculate and report to the Compliance Enforcement Authority data related to Primary Frequency Response (PFR) performance of each generating unit/generating facility.

Data retention—The BA, GO, and GOP shall keep data or evidence to show compliance, as identified below, unless directed by its Compliance Enforcement Authority to retain specific evidence for a longer period of time as part of an investigation. Compliance audits are generally about three years apart.

- The BA shall retain a list of identified Frequency Measurable Events and shall retain FME information since its last compliance audit.
- The BA shall retain all monthly PFR performance reports since its last compliance audit.
- The BA shall retain all annual Interconnection minimum Frequency Response calculations, and related methodology and criteria documents, relating to time periods since its last compliance audit.
- The BA shall retain all data and calculations relating to the Interconnection's Frequency Response, and all evidence of actions taken to increase the Interconnection's Frequency Response, since its last compliance audit.
- Each GOP and GO shall retain evidence since its last compliance audit.

Type of Respondents: NERC Registered entities: Balancing Authorities, Generator Owners, Generator Operators.

Estimate of Annual Burden: [1] The Commission estimates the annual public reporting burden for the information collection as:

FERC–725T (MANDATORY RELIABILITY STANDARDS FOR THE BULK-POWER SYSTEM: TRE RELIABILITY STANDARDS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [2]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Maintenance and Submission of Event Log Data.	[3] 1	1	1	16 hrs.; $891.20 ...	16 hrs.; $891.20	$891.20
Evidence Retention	[4] 420	1	420	2 hrs.; $111.40	840 hrs.; $46,788	111.40
Total	.....	.....	421	.....	856 hrs.; $47,679.20	.....

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate 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.

Dated: May 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–09812 Filed 5–8–23; 8:45 am]

BILLING CODE 6717–01–P

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] The figures for May 2022 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm*) and updated May 2022 for benefits information (at *http://www.bls.gov/news.release/ecec.nr0.htm*). The hourly estimates for salary plus benefits are:

—File Clerks (code 43–4071), $34.38

—Electrical Engineer (code 17–2071), $77.02

The average hourly burden cost for this collection is $55.70 [($34.38 + $77.02)/2 = 55.70]

[3] BA (balancing authority).

[4] BA (balancing authority) (1), GO (generator owner) (233), and GOP (generator operator) (186) = 420 functional entities numbers based on NERC Compliance Registry November 4, 2022. The large increase is due to counting each entity function separately instead of considering overlap. Also, there has been an increase in number of renewable energy entities in the Texas region.

EXPORT-IMPORT BANK

Sunshine Act Meetings; Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND DATE: Thursday, May 18, 2023, at 10:30 a.m.

PLACE: The meeting will be held via teleconference.

STATUS: The meeting will be open to public observation.

MATTERS TO BE CONSIDERED: Review of COVID–19 Relief Measures; Pre-Export/Pre-Delivery Payment Financing Option. Request to incorporate into EXIM's existing Pre-Export Payment Policy.

CONTACT PERSON FOR MORE INFORMATION: Joyce B. Stone (202–257–4086).

Members of the public who wish to attend the meeting may do so via teleconference and must register using the link below by noon Wednesday May 17, 2023. After completing the registration, individuals will receive a confirmation email containing information about joining the webinar.

https://teams.microsoft.com/registration/PAFTuZHHMk2Zb1GDkIVFJw,pHLqbjVTrkuy_9KepKN6dQ,MFtnLzltSEGI6EQECdI5iQ,-TMCxl5GsEq6yLS6osHeTw,10AYmj_QV0KnmwKKO4Je8A,nPFBlm3NS06NSiYEDXanfQ?mode=read&tenantId=b953013c-c791-4d32-996f-518390854527

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2023–09882 Filed 5–5–23; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0589; FR ID 139938]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 10, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0589.

Title: FCC Remittance Advice Forms, FCC Form 159/159–C, 159–B, 159–E, and 159–W.

Form Number(s): FCC Form 159 Remittance Advice, 159–C Remittance Advice Continuation Sheet, 159–B Remittance Advice Bill for Collection, 159–E Remittance Voucher, and 159–W Interstate Telephone Service Provider Worksheet.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; individuals or households; not-for-profit institutions; and State, local, or Tribal governments.

Number of Respondent and Responses: 180,000 respondents; 180,000 responses.

Estimated Time per Response: 15 minutes (0.25 hours).

Frequency of Response: On occasion and annual reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory Authority for this information collection is contained in the Communications Act of 1934, as amended; section 8 (47 U.S.C. 158) for Application Fees; section 9 (47 U.S.C. 159) for Regulatory Fees; section 309(j) for Auction Fees; and the Debt Collection Improvement Act of 1996, Public Law 104–134, chapter 10, section 31001.

Total Annual Burden: 45,000 hours.

Total Annual Cost: None.

Needs and Uses: The FCC supports a series of remittance advice forms and a remittance voucher form that may be submitted in lieu of a remittance advice form when entities or individuals electronically submit a payment. A remittance advice form (or a remittance voucher form in lieu of an advice form) must accompany any payment to the Federal Communications Commission (*e.g.,* payments for regulatory fees, application filing fees, auctions, fines, forfeitures, Freedom of Information Act (FOIA) billings, or any other debt due to the FCC. Information is collected on these forms to ensure credit for full payment, to ensure entities and individuals receive any refunds due, to service public inquiries, and to comply with the Debt Collection Improvement Act of 1996. On August 12, 2013, the Commission released a Report and Order (R&O), In the Matter Assessment and Collection of Regulatory Fee for fiscal year 2013 and Procedures for Assessment and Collection of Regulatory Fees, MD Docket Nos. 13–140 and 12–201, FCC 13–110. In this R&O, the Commission requires that beginning in FY 2014, all regulatory fee payments be made electronically and that the Commission will no longer mail out initial regulatory fee assessments to CMRS providers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–09774 Filed 5–8–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m. on Thursday, May 11, 2023.

PLACE: This Board meeting will be open to public observation only by webcast. Visit *https://www.fdic.gov/news/board-matters/video.html* for a link to the webcast. FDIC Board Members and staff will participate from FDIC Headquarters, 550 17th Street NW, Washington, DC.

Observers requiring auxiliary aids (*e.g.,* sign language interpretation) for this meeting should email *DisabilityProgram@fdic.gov* to make necessary arrangements.

STATUS: Open to public observation via webcast.

MATTER TO BE CONSIDERED: The Federal Deposit Insurance Corporation's Board of Directors will meet to consider the following matters:

Discussion Agenda

Memorandum and resolution re: Notice of Proposed Rulemaking on Special Assessments Pursuant to Systemic Risk Determination.

CONTACT PERSON FOR MORE INFORMATION: Direct requests for further information concerning the meeting to Debra A. Decker, Executive Secretary of the Corporation, at 202–898–8748.

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

Dated at Washington, DC, on May 4, 2023.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–09889 Filed 5–5–23; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–05]

Appraisal Subcommittee; Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of special meeting.

Description: In accordance with section 1104(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) met for a special meeting on this date.

Location: Virtual meeting via Webex.

Date: April 19, 2023.

Time: 3:30 p.m. ET.

Action and Discussion Item

Personnel Matter

The ASC convened a special meeting to vote on a personnel matter. The vote passed 7–0 to accept ASC staff recommendation on the personnel matter.

James R. Park,

Executive Director.

[FR Doc. 2023–09842 Filed 5–8–23; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–04]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of special meeting.

Description: In accordance with section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) met for a Special Meeting on this date.

Location: Virtual meeting via Webex.

Date: April 17, 2023.

Time: 12:00 p.m. ET.

Action and Discussion Item

Personnel Matter

The ASC convened a Special Meeting to discuss a personnel matter. No action was taken by the ASC.

James R. Park,

Executive Director.

[FR Doc. 2023–09841 Filed 5–8–23; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MARITIME COMMISSION

[DOCKET NO. 23–03]

CertiFit, Inc., Complainant v. Evergreen Shipping Agency (America) Corp., as Agent for Evergreen Line, Evergreen Group D/B/A Evergreen Line, Respondent; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by CertiFit Inc., hereinafter ''Complainant,'' against Evergreen Shipping Agency (America) Corp. (hereinafter ''Respondent''), as Agent for Evergreen Line, Evergreen Group d/b/a Evergreen Line, and its constituent parts, including: Evergreen Marine Group (Taiwan) Ltd; Italia Maritime S.p.A.; Evergreen Marine (UK) Ltd.; Evergreen Marin (Hong Kong) Ltd.; Evergreen Marine (Singapore) Pte. Ltd.; and Evergreen Marine (Asia) Pte. Ltd. Complainant states that it is a corporation existing under the laws of Utah with a principal place of business in Utah. Complainant identifies Respondent as a vessel-operating ocean common carrier and corporation existing under the laws of New Jersey with a principal place of business in New Jersey.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c), 41104(a)(2), 41104(a)(5), 41104(a)(9), and 41104(a)(10) regarding its practices regarding shipments of cargo, including systematically failing to meet its commitments to Complainant under Service Contracts, refusing tendered cargo, refusing to provide empty containers, failing to provide necessary information concerning booking issues, and a refusal to deal. An answer to the complaint is due to be filed with the Commission within twenty-five (25) days after the date of service. The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/23-03/.* This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by May 6, 2024, and the final decision of the Commission shall be issued by November 20, 2024.

Served: May 4, 2023.

William Cody,

Secretary.

[FR Doc. 2023–09858 Filed 5–8–23; 8:45 am]

BILLING CODE 6730–02–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 June 8, 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 *Comments.applications@rich.frb.org:*

1. *JSB Financial Inc., Shepherdstown, West Virginia;* to become a bank holding company by acquiring Jefferson Security Bank, also of Shepherdstown, West Virginia.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–09857 Filed 5–8–23; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment for the NCHA PSO

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ accepted a notification of proposed voluntary relinquishment from the NCHA PSO, PSO number P0025, of its status as a PSO, and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on April 30, 2023.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008 (73 FR 70732–70814), establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety work product.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of PSOs.

AHRQ has accepted a notification of proposed voluntary relinquishment from the NCHA PSO to voluntarily relinquish its status as a PSO. Accordingly, the NCHA PSO, PSO number P0025, was delisted effective at 12:00 Midnight ET (2400) on April 30, 2023.

NCHA PSO has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Dated: May 3, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–09771 Filed 5–8–23; 8:45 am]

BILLING CODE 4160–90–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: Ryan White HIV/AIDS Program: Mpox Vaccine Distribution Request Forms, OMB No. 0915–xxxx–New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

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 July 10, 2023.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer, at 301–594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Ryan White HIV/AIDS Program: Mpox Vaccine Distribution Request Forms—OMB No. 0915–xxxx–New.

Abstract: On August 4, 2022, the mpox outbreak was declared a public health emergency (PHE) in the United States. From the outset, HRSA engaged with federal partners across HHS to provide resources to combat the spread of mpox; assist health care providers who are treating people who have mpox; and ensure those who are most at risk are the focus of vaccine response efforts.

HHS authorized HRSA to receive allotments of the JYNNEOS vaccine for mpox for rapid distribution to Ryan

White HIV/AIDS Program (RWHAP) recipients. HRSA was identified as a distribution partner due to the health care services provided to individuals with HIV and the number of uninsured and underinsured persons seen in RWHAP and Health Center Programs. The allotments were meant to supplement, not replace, vaccine efforts at jurisdictional levels.

To expedite dispensing the vaccine, HRSA provided the vaccine to dually funded RWHAP Part C and Health Center providers that care for at-risk populations. Most of the identified providers already had access to the Health Partner Ordering Portal (HPOP), a system HHS uses to quickly distribute the vaccines to clients. For providers who elected to receive the vaccine but did not have access to HPOP, HRSA registered them in the HPOP system. HRSA made 73 shipments to 57 (53 dually funded and four Part C only) RWHAP recipients who elected to receive and distribute the mpox vaccine.

RWHAP recipients that receive shipments of the JYNNEOS vaccine are required to upload administration and inventory/wastage data into HPOP on a weekly basis. The information collected includes federal or state PIN, contact, lot number, description, number of vials, expiration date, courses/doses/bottles administered, bottles available, wastage, reason, and date reported.

RWHAP recipients who accept JYNNEOS vaccine from HRSA are also asked to submit data with information necessary for HRSA to assess the quantity of mpox vaccines requested and its distribution status. The information collected includes grant number; recipient name, point of contact, and phone number; shipping address; shipping point of contact, email address, and phone number; and number of boxes of mpox vaccine requested.

As a result of the PHE for mpox, the Assistant Secretary for Planning and Evaluation issued a Paperwork Reduction Act waiver for collection of these data. Since the PHE ended on January 31, 2023, HRSA is proposing to continue collecting these data until the end of 2025. This action will help to improve HRSA's ability to provide additional resources and assistance to RWHAP recipients, which may result in increased prevention of mpox among RWHAP clients.

Need and Proposed Use of the Information: HRSA will use the information collected to (1) assess and improve its response to the mpox pandemic and (2) improve HRSA's ability to provide resources and assistance to RWHAP recipients in future public health emergencies.

Likely Respondents: Dually funded RWHAP Part C and Health Center recipients who accepted at least one shipment of mpox vaccine from HRSA.

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
Vaccine Distribution Report	57	1	57	0.5	28.5
Wastage Upload Report	57	1	57	23.4	1,333.8
Therapeutic Courses (Administered and Available)	57	1	57	10.4	592.8
Total	171				1,955.1

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. 2023–09823 Filed 5–8–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Research Study Section.

Date: June 22–23, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Mario Cerritelli, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20892, 240–669–5199, *cerritem@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856,

Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 03, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09837 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Study Section.

Date: May 23, 2023.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, Bethesda, MD 20892, 301–443–4032, *anna.ghambaryan@nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Study Section.

Date: June 6, 2023.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ming Yan, M.D., Ph.D., Scientific Review Officer (Detail), Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 4205, Bethesda, MD 20892, (202) 725–8503, *yanming@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS)

Dated: May 3, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09777 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCR.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental and Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCR.

Date: June 6–7, 2023.

Time: June 6, 2023, 10:00 a.m. to 5:45 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Time: June 7, 2023, 10:00 a.m. to 5:15 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lynn M. King, Ph.D., Director, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Bethesda, MD 20892, (301) 594–5006, *lynn.king@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 3, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09778 Filed 5–8–23; 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 Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Study Section.

Date: June 2, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Moushumi Paul, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20817, (301) 496–3596, *moushumi.paul@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/org/der/srb,* where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 3, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09835 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of Basic Visual Processes Study Section.

Date: June 7–8, 2023.

Time: 10:00 a.m. to 6:00 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: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.

Date: June 8–9, 2023.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Washington, DC City Center, 1400 M Street, Washington, DC 20005.

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, (301) 408–9866, *manospa@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Guided Interventions and Surgery Study Section.

Date: June 8–9, 2023.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Ella Fung Jones, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–0777, *ella.jones@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensory-Motor Neuroscience Study Section.

Date: June 8–9, 2023.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Alena Valeryevna Savonenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 594–3444, *savonenkoa2@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Basic Mechanisms of Diabetes and Metabolism Study Section.

Date: June 8–9, 2023.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Liliana Norma Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 6158, MSC 7890, Bethesda, MD 20892, (301) 827–7609, *liliana.berti-mattera@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: June 8–9, 2023.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451–4251, *Armaz.aschrafi@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.

Date: June 8–9, 2023.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 451–0996, *ybi@csr.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Molecular Neurogenetics Study Section.

Date: June 8–9, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–915–6301, *marygs@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: June 8–9, 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: Aleksey G. Kazantsev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20817, 301–435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: June 8–9, 2023.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Alan Bannister, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1010–D, Bethesda, MD 20892, (301) 435–1042, *bannisterra@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Lifestyle Change and Behavioral Health Study Section.

Date: June 8–9, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Jeter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 10J08, Bethesda, MD 20892, (301) 827–6401, *pamela.jeter@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrine and Metabolic Systems.

Date: June 8–9, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Baskaran Thyagarajan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800B, Bethesda, MD 20892, (301) 867–5309, *thyagarajanb2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 4, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09829 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel Small Business: The Cancer Biotherapeutics Development (CBD), June 12–13, 2023, to July 17–18, 2023, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, which was published in the **Federal Register** on May 01, 2023, 88 FR 26581 Doc 2023–09094.

This meeting is being amended to change the meeting date from June 12–13, 2023, to July 17–18, 2023. The meeting is closed to the public.

Dated: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09865 Filed 5–8–23; 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 Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Study Section.
Date: June 23, 2023.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Luis E. Dettin, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2127D, Bethesda, MD 20892, (301) 219–3400, *luis.dettin@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Study Section.
Date: June 23, 2023.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jolanta Maria Topczewska, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892, (301) 451–0000, *jolanta.topczewska@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09859 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Prevention and Control Clinical Trials.
Date: June 1, 2023.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI R01/R34 Advancing Adolescent Tobacco Cessation Intervention Review Meeting.
Date: June 2, 2023.
Time: 9:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).
Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–276–5085, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Institutional Training and Education Study Section (F).
Date: June 21, 2023.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Advanced Development of Analysis Technologies.

Date: June 23, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–6371, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–9: NCI Clinical and Translational Cancer Research.

Date: June 27, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W606, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Bruce Daniel Hissong, Ph.D., Scientific Review Officer, Resource and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W606, Rockville, Maryland 20850, 240–276–7752, *bruce.hissong@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Research Project-Cooperative Agreements (U01).

Date: June 28, 2023.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Amr M. Ghaleb, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–6611, *amr.ghaleb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Molecular and Cellular Analysis Technologies.

Date: July 6–7, 2023.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W608, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W608, Rockville, Maryland 20850, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Stimulating Access to Research in Residency (R38).

Date: July 12, 2023.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Priya Srinivasan, Ph.D., Scientific Review Officer, Resource and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850, 240–276–5619, *priya.srinivasan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–10: NCI Clinical and Translational Cancer Research.

Date: July 26, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 3, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09776 Filed 5–8–23; 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 Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Pediatrics Study Section.

Date: June 15, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Joanna Kubler-Kielb, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20817, (301) 435–6916, *kielbj@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/org/der/srb,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 3, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09836 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocast website *https:/www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.*

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: June 6, 2023.

Closed: 9:00 a.m. to 10:00 p.m.

Agenda: To Review and Evaluate Grant Applications.

Place: National Institutes of Health, NHLBI, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Open: 10:00 p.m. to 5:00 p.m.

Agenda: To Discuss Program Policies and Issues.

Place: National Institutes of Health, NHLBI, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Virtual Access: The meeting will be videocast and can be accessed from the NIH Videocast. *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.* Please note, the link to the videocast meeting will be posted within a week of the meeting date.

Contact Person: Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892, 301–827–5517, *moenl@mail.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

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.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09862 Filed 5–8–23; 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 Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Study Section.

Date: June 20, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Chi-Tso Chiu, Ph.D., Scientific Review Officer, Scientific Review Branch (SRB), Eunice Kennedy Shriver National Institute of Child Health & Human Development, NIH, DHHS, 6710B Rockledge Drive, Room 2127B, Bethesda, MD 20817, (301) 435–7486, *chiuc@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/org/der/srb,* 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: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09866 Filed 5–8–23; 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 Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Study Section.

Date: June 21, 2023.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2121C, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jagpreet Singh Nanda, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121C, Bethesda, MD 20892, (301) 451–4454, *jagpreet.nanda@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09860 Filed 5–8–23; 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 Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Health, Behavior, and Context Study Section.

Date: June 12, 2023.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2137C, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly L. Houston, M.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137C, Bethesda, MD 20892, (301) 827–4902, *kimberly.houston@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09861 Filed 5–8–23; 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 Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Study Section.

Date: June 8, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington, DC/Rockville, 1750 Rockville Pike, Rockville, MD.

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121B, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/org/der/srb,* 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: May 4, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09864 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Initial Review Group; Mental Health Services Study Section.

Date: June 6, 2023.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037 (Hybrid Meeting).

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 3, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09779 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 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: Heart, Lung, and Blood Initial Review Group; Heart, Lung, and Blood Program Project Study Section.

Date: June 16, 2023.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Melissa H. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–R, Bethesda, MD 20892, (301) 827–7951, *nagelinmh2@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 3, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09839 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST–1 Overflow.

Date: May 22, 2023.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20852, 301–496–0660, *benzingw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: May 3, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09834 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Study Section.

Date: June 29–30, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–V, Bethesda, MD 20892, (301) 827–7992, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 3, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09833 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 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: Microbiology, Infectious Diseases and AIDS Initial Review

Group; Microbiology and Infectious Diseases Research Study Section.

Date: June 20–21, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G62A, National Institute of Allergy and Infectious Diseases, National Institute of Health, 5601 Fishers Lane, Bethesda, MD 20892, (240) 669–5081, *ecohen@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 3, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09831 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 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: Heart, Lung, and Blood Initial Review Group; NHLBI Single-Site and Pilot Clinical Trials Study Section.

Date: June 21–22, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 3, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–09830 Filed 5–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0293]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0066

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0066, Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 10, 2023.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2023–0293] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2023–0293], and must be received by July 10, 2023.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound.

OMB Control Number: 1625–0066.

Summary: The Oil Pollution Act of 1990 (OPA 90) required the development of Vessel and Facility Response Plans to minimize the impact of oil spills. OPA 90 also required additional response requirements for Prince William Sound. Shipboard Oil Pollution Emergency Plans and Shipboard Marine Pollution Emergency Plans are required of other vessels to minimize impacts of oil spills.

Need: This information is needed to ensure that vessels and facilities are prepared to respond in event of a spill incident. The information is reviewed by the Coast Guard to assess the effectiveness of the response plan.

Forms: N/A.

Respondents: Owners and operators of vessels and facilities.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 88,381 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 4, 2023.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2023–09848 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0295]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0079

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0079, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), International Convention; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 10, 2023.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2023–0295] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2023–0295], and must be received by July 10, 2023.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Standards of Training, Certification and Watchkeeping for Seafarers (STCW), International Convention.

OMB Control Number: 1625–0079.

Summary: This information is necessary to ensure compliance with the international requirements of the STCW Convention, and to maintain an acceptable level of quality in activities associated with training and assessment of merchant mariners.

Need: 46 U.S.C. Chapter 71 authorizes the Coast Guard to issue regulations related to licensing of merchant mariners. These regulations are contained in 46 CFR chapter I, subchapter B.

Forms: None.

Respondents: Owners and operators of vessels, training institutions, and mariners.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 29,234 hours to 23,200 hours a year, due to a decrease in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 4, 2023.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2023–09849 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0096]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0042

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0042, Requirements for Lightering of Oil and Hazardous Material Cargoes, and Advance Notice of Transfer; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before June 8, 2023.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2023–0096]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2023–0096], and must be received by June 8, 2023.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0042.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (88 FR 8878, February 10, 2023) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Requirements for Lightering of Oil and Hazardous Material Cargoes, and Advance Notice of Transfer.

OMB Control Number: 1625–0042.

Summary: The information for this report allows the U.S. Coast Guard to provide timely response to an emergency and minimize the environmental damage from an oil or hazardous material spill. The information also allows the Coast Guard to control the location and procedures for lightering activities. It also provides advance notice of transfers at certain facilities.

Need: 46 U.S.C. 3715 authorizes the Coast Guard to establish lightering regulations. Title 33 CFR 156.200 to 156.330 and 156.400 to 156.430 prescribes the Coast Guard regulations for lightering, including pre-arrival notice, reporting of incidents and operating conditions. 46 U.S.C. 70011 authorizes the Coast Guard to prescribe

advance notice of transfer regulations. Title 33 CFR 156.118 prescribe the regulations.

Forms: CG–4020, 4 Hour Advance Notice of Transfer.

Respondents: Owners, masters and agents of lightering vessels, and facility representatives.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 985 hours to 899 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: April 18, 2023.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2023–09806 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0294]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0100

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0100, Advanced Notice of Vessel Arrival; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 10, 2023.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2023–0294] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2023–0294], and must be received by July 10, 2023.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Advanced Notice of Vessel Arrival.

OMB Control Number: 1625–0100.

Summary: The statute 46 U.S.C. 70001 authorizes the Coast Guard to require pre-arrival messages from any vessel entering a port or place in the United States.

Need: This information is required under 33 CFR 146 and 33 CFR 160 subpart C to control vessel traffic, develop contingency plans, and enforce regulations.

Forms: None.

Respondents: Owners and operators of vessels and facilities.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 104,560 hours to 202,021 hours a year; due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 4, 2023.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2023–09850 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2332]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before August 7, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2332, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Lincoln County, Colorado and Incorporated Areas Project: 20–08–0046S Preliminary Date: September 29, 2022	
Town of Limon	Town Hall, 100 Civic Center Drive, Limon, CO 80828.
Unincorporated Areas of Lincoln County	Lincoln County Complex, 103 3rd Avenue, Hugo, CO 80821.

[FR Doc. 2023–09787 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2330]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before August 7, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2330, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Hays County, Texas and Incorporated Areas Project: 16–06–1113S Preliminary Date: December 14, 2022	
City of Buda	Engineering Department, 405 East Loop Street, Building 100, Buda, TX 78610.
City of Dripping Springs	Public Works Department, 511 Mercer Street, Dripping Springs, TX 78620.
City of Kyle	Building Department, 100 West Center Street, Kyle, TX 78640.
City of Niederwald	City Hall, 8807 Niederwald Strasse, Niederwald, TX 78640.
City of San Marcos	Engineering Department, City Hall, 630 East Hopkins Street, San Marcos, TX 78666.
City of Uhland	City Hall, 15 North Old Spanish Trail, Uhland, TX 78640.
City of Wimberley	Planning and Development Department, 221 Stillwater Road, Wimberley, TX 78676.
City of Woodcreek	City Hall, 41 Champions Circle, Woodcreek, TX 78676.

Community	Community map repository address
Unincorporated Areas of Hays County	Hays County Development Services Department, 2171 Yarrington Road, Suite 100, Kyle, TX 78640.
Village of Bear Creek	Village of Bear Creek Mayor's Office, 6705 Highway 290 West, Austin, TX 78753.

[FR Doc. 2023–09793 Filed 5–8–23; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2333]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before August 7, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2333, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Bath County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
Unincorporated Areas of Bath County	Bath County Emergency Management Office, 19 East Main Street, Owingsville, KY 40360.
Bourbon County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
City of Millersburg	City Hall, 1113 Main Street, Millersburg, KY 40348.
City of North Middletown	City Office, 3287 North Middletown Road, North Middletown, KY 40357.
City of Paris	Municipal Center, 525 High Street, Paris, KY 40361.
Unincorporated Areas of Bourbon County	City of Paris Municipal Center, 525 High Street, Paris, KY 40361.
Clark County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
City of Winchester	City Hall, 32 Wall Street, Winchester, KY 40391.
Unincorporated Areas of Clark County	Winchester City Hall, 32 Wall Street, Winchester, KY 40391.
Montgomery County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
City of Mount Sterling	City Hall, 33 North Maysville Street, Mount Sterling, KY 40353.
Unincorporated Areas of Montgomery County	Montgomery County Courthouse Annex, 44 West Main Street, Mount Sterling, KY 40353.
Nicholas County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
City of Carlisle	City Hall, 107 East Chestnut Street, Carlisle, KY 40311.
Unincorporated Areas of Nicholas County	Nicholas County Courthouse, 125 East Main Street, Carlisle, KY 40311.

[FR Doc. 2023–09788 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2331]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before August 7, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2331, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any

request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Bay County, Michigan (All Jurisdictions) **Project: 14–05–2706S Preliminary Date: November 07, 2022**	
Charter Township of Bangor	Bangor Charter Township Hall, 180 State Park Drive, Bay City, MI 48706.
Charter Township of Hampton	Hampton Hall, 801 West Center Road, Essexville, MI 48732.
Charter Township of Monitor	Monitor Township Hall, 2483 Midland Road, Bay City, MI 48706.
Charter Township of Portsmouth	Portsmouth Township Hall, 1711 West Cass Avenue Road, Bay City, MI 48708.
City of Bay City	City Hall, 301 Washington Avenue, Bay City, MI 48708.
City of Essexville	City Hall, 1107 Woodside Avenue, Essexville, MI 48732.
City of Pinconning	City Hall, 208 Manitou Street, Pinconning, MI 48650.
Township of Frankenlust	Frankenlust Township Hall, 2401 Delta Road, Bay City, MI 48706.
Township of Fraser	Fraser Township Hall, 1474 North Mackinaw, Linwood, MI 48634.
Township of Kawkawlin	Township Hall, 1836 East Parish Road, Kawkawlin, MI 48631.
Township of Merritt	Merritt Township Community Hall, 48 East Munger Road, Munger, MI 48747.
Township of Pinconning	Township Hall, 1751 East Cody Estey Road, Pinconning, MI 48650.

[FR Doc. 2023–09784 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of September 21, 2023 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Benton County, Iowa and Incorporated Areas Docket No.: FEMA–B–2126 and B–2261	
City of Vinton	City Hall, 110 West 3rd Street, Vinton, IA 52349.
Unincorporated Areas of Benton County	Benton County Courthouse, 111 East 4th Street, Vinton, IA 52349.
Olmsted County, Minnesota and Incorporated Areas Docket No.: FEMA–B–2135	
Unincorporated Areas of Olmsted County	Olmsted County Planning, Land Use, and Zoning Department, 2122 Campus Drive SE, Suite 100, Rochester, MN 55904.
Steele County, North Dakota and Incorporated Areas Docket No.: FEMA–B–2240	
City of Finley	City Hall, 208 4th Street West, Finley, ND 58230.
City of Hope	City Hall, 107 Steele Avenue, Hope, ND 58046.
City of Sharon	Steele County Courthouse, 201 Washington Avenue West, Finley, ND 58230.
Unincorporated Areas of Steele County	Steele County Courthouse, 201 Washington Avenue West, Finley, ND 58230.
Union County, Ohio and Incorporated Areas Docket No.: FEMA–B–2248	
City of Marysville	City Hall, 209 South Main Street, Marysville, OH 43040.
Unincorporated Areas of Union County	Union County Office Building, 233 West 6th Street, Marysville, OH 43040.
Village of Richwood	Municipal Building, 153 North Franklin Street, Richwood, OH 43344.
Johnson County, Texas and Incorporated Areas Docket No.: FEMA–B–2200	
City of Cleburne	City Hall, 10 North Robinson Street, Cleburne, TX 76031.
City of Mansfield	City Hall, 1200 East Broad Street, Mansfield, TX 76063.
City of Venus	City Hall, 700 West US Highway 67, Venus, TX 76084.
Unincorporated Areas of Johnson County	Johnson County Public Works Department, 2 North Mill Street, Suite 305, Cleburne, TX 76033.
Somervell County, Texas and Incorporated Areas Docket No.: FEMA–B–2057 and FEMA–B–2207	
City of Glen Rose	City Hall, Planning and Building Department, 201 Northeast Vernon Street, Glen Rose, TX 76043.
Unincorporated Areas of Somervell County	Somervell County Offices Building, 107 Northeast Vernon Street, Glen Rose, TX 76043.

[FR Doc. 2023–09790 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2338]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The

FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Phoenix (22–09–0280P).	The Honorable Kate Gallego, Mayor, City of Phoenix, City Hall, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	040051
Maricopa	City of Phoenix (22–09–1725P).	The Honorable Kate Gallego, Mayor, City of Phoenix, City Hall, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	040051
Maricopa	City of Surprise (22–09–0693P).	The Honorable Skip Hall, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Public Works Department, Engineering Development Services, 16000 North Civic Center Plaza, Surprise, AZ 85374.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 4, 2023	040053
Pima	Town of Marana (22–09–0176P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Engineering Department, Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 14, 2023	040118
California:						
Marin	City of Novato (22–09–0167P).	The Honorable Susan Wernick, Mayor, City of Novato, 922 Machin Avenue, Novato, CA 94945.	Public Works Department, 922 Machin Avenue, Novato, CA 94945.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 4, 2023	060178

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Placer	City of Rocklin (21–09–1531P).	The Honorable Ken Broadway, Mayor, City of Rocklin, 3970 Rocklin Road, Rocklin, CA 95677.	Engineering Department, 3970 Rocklin Road, Rocklin, CA 95677.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 14, 2023	060242
Riverside	City of Lake Elsinore (22–09–1014P).	The Honorable Natasha Johnson, Mayor, City of Lake Elsinore, 130 South Main Street, Lake Elsinore, CA 92530.	Engineering Division, 130 South Main Street, Lake Elsinore, CA 92530.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 18, 2023	060636
Santa Barbara	City of Santa Barbara (21–09–1771P).	The Honorable Randy Rowse, Mayor, City of Santa Barbara, City Hall, 735 Anacapa Street, Santa Barbara, CA 93101.	Community Development Department, Building and Safety Division, 630 Garden Street, Santa Barbara, CA 93101.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 1, 2023	060335
Ventura	City of Simi Valley (22–09–0986P).	The Honorable Fred D. Thomas, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	City Hall, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 12, 2023	060421
Idaho:						
Madison	City of Rexburg (22–10–0382P).	The Honorable Jerry Merrill, Mayor, City of Rexburg, 35 North 1st East, Rexburg, ID 83440.	City Hall, 12 North Center Street, Rexburg, ID 83440.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 14, 2023	160098
Madison.	Unincorporated Areas of Madison County (22–10–0382P).	Todd Smith, Chair, Madison County Commissioners, 134 East Main Street, Rexburg, ID 83440.	Madison County Courthouse, 159 East Main Street, Rexburg, ID 83440.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 14, 2023	160217
Illinois:						
Will	City of Wilmington (22–05–2769P).	The Honorable Ben Dietz, Mayor, City of Wilmington, 1165 South Water Street, Wilmington, IL 60481.	City Hall, 1165 South Water Street, Wilmington, IL 60481.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	170715
Will	Unincorporated Areas of Will County (22–05–2410P).	The Honorable Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	170695
Will	Unincorporated Areas of Will County (22–05–2769P).	The Honorable Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	170695
Will	Village of Plainfield (22–05–2410P).	The Honorable John F. Argoudelis, Village President, Village of Plainfield, 24401 West Lockport Street, Plainfield, IL 60544.	Village Hall, 24401 West Lockport Street, Plainfield, IL 60544.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	170771
Iowa:						
Dallas	City of Granger (22–07–0836P).	The Honorable Tony James, Mayor, City of Granger, City Hall, 1906 Main Street, Granger, IA 50109.	City Hall, 1906 Main Street, Granger, IA 50109.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 23, 2023	190104
Polk	Unincorporated Areas of Polk County (22–07–0774P).	Angela Connolly, County Chair, Polk County, Polk County Administration Building, 111 Court Avenue, Room 300, Des Moines, IA 50309.	Polk County Public Works, 5885 Northeast 14th Street, Des Moines, IA 50313.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 8, 2023	190901
Michigan:						
Kent	Charter Township of Gaines (22–05–2589P).	Robert DeWard, Supervisor, Charter Township of Gaines, 8555 Kalamazoo Avenue Southeast, Caledonia, MI 49316.	Township Office, 8555 Kalamazoo Avenue Southeast, Caledonia, MI 49316.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260990
Kent	Charter Township of Plainfield (22–05–2589P).	Tom Coleman, Supervisor, Charter Township of Plainfield, 6161 Belmont Avenue Northeast, Belmont, MI 49306.	Township Center, 6161 Belmont Avenue Northeast, Belmont, MI 49306.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260109

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Kent	City of Grand Rapids (22–05–2589P).	The Honorable Rosalynn Bliss, Mayor, City of Grand Rapids, 300 Monroe Avenue Northwest, Grand Rapids, MI 49503.	City Hall, 300 Monroe Avenue Northwest, Grand Rapids, MI 49503.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260106
Kent	City of Grandville (22–05–2589P).	The Honorable Steve Maas, Mayor, City of Grandville, 3195 Wilson Avenue Southwest, Grandville, MI 49418.	City Hall, 3195 Wilson Avenue Southwest, Grandville, MI 49418.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260271
Kent	City of Kentwood (22–05–2589P).	The Honorable Stephen Kepley, Mayor, City of Kentwood, P.O. Box 8848, Kentwood, MI 49508.	City Hall, 4900 Breton Avenue Southeast, Kentwood, MI 49508.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260107
Kent	City of Walker (22–05–2589P).	The Honorable Gary Carey, Mayor, City of Walker, 4243 Remembrance Road Northwest, Walker, MI 49534.	City Hall, 4243 Remembrance Road Northwest, Walker, MI 49534.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260110
Kent	City of Wyoming (22–05–2589P).	The Honorable Jack Poll, Mayor, City of Wyoming, P.O. Box 905, Wyoming, MI 49509.	City Hall, 1155 28th Street Southwest, Wyoming, MI 49509.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260111
Kent	Township of Alpine (22–05–2589P).	Greg Madura, Supervisor, Township of Alpine, 5255 Alpine Avenue Northwest, Comstock Park, MI 49321.	Alpine Township Municipal Building, 5255 Alpine Avenue Northwest, Comstock Park, MI 49321.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260961
Kent	Township of Cannon (22–05–2589P).	Steve Grimm, Supervisor, Township of Cannon, 6878 Belding Road, Rockford, MI 49341.	Cannon Township Center, 6878 Belding Road, Rockford, MI 49341.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	260734
Nevada: Washoe	Unincorporated Areas of Washoe County (22–09–0783P).	The Honorable Vaughn Hartung, Chair, Board of Commissioners, Washoe County, 1001 East 9th Street, Reno, NV 89512.	Washoe County Administration Building, Department of Public Works, 1001 East 9th Street, Reno, NV 89512.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 20, 2023	320019
New York:						
Clinton	Town of Black Brook (23–02–0220P).	Jon Douglass, Supervisor, Town of Black Brook, P.O. Box 715, AuSable Forks, NY 12912.	Black Brook Town Hall, 18 North Main Street, AuSable Forks, NY 12912.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 21, 2023	361309
Orange	Town of Goshen (23–02–0099P).	Joseph Betro, Town Supervisor, Town of Goshen, 41 Webster Avenue, Goshen, NY 10924.	Town Hall, 41 Webster Avenue, Goshen, NY 10924.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 21, 2023	360614
Orange	Village of Goshen (23–02–0099P).	The Honorable Scott Wohl, Mayor, Village of Goshen, Board of Trustees, 276 Main Street, Goshen, NY 10924.	Village Hall, 276 Main Street, Goshen, NY 10924.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 21, 2023	361571
Ohio: Licking	Unincorporated Areas of Licking County (22–05–2046P).	Timothy E. Bubb, President, Board of Licking County Commissioners, County Administration Building, 20 South Second Street, Newark, OH 43055.	Licking County Administration Building, 20 South Second Street, Newark, OH 43055.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 18, 2023	390328
Tennessee: Shelby	City of Memphis (22–04–5686P).	The Honorable Jim Strickland, Mayor, City of Memphis, City Hall, 125 North Main Street Room 700, Memphis, TN 38103.	Department of Engineering, 125 North Main Street, Room 476, Memphis, TN 38103.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 3, 2023	470177
Texas: Tarrant	City of North Richland Hills (21–06–1861P).	The Honorable Oscar Trevino, Jr., Mayor, City of North Richland Hills, 4301 City Point Drive, North Richland Hills, TX 76180.	City Hall, 4301 City Point Drive, North Richland Hills TX 76180.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 17, 2023	480607

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Washington: King ..	City of Shoreline (22–10–0967P).	The Honorable Keith Scully, Mayor, City of Shoreline, 17500 Midvale Avenue North, Shoreline, WA 98133.	City Hall, Planning and Community Development Department, 17500 Midvale Avenue North, Shoreline, WA 98133.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 17, 2023	530327

[FR Doc. 2023–09789 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2334]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Adams	City of Northglenn (22–08–0327P).	The Honorable Meredith Leighty, Mayor, City of Northglenn, 11701 Community Center Drive, Northglenn, CO 80233.	City Hall, 11701 Community Center Drive, Northglenn, CO 80233.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	080257
Adams	City of Thornton (22–08–0327P).	The Honorable Jan Kulmann, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	080007
Arapahoe	City of Centennial (21–08–1158P).	The Honorable Stephanie Piko, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 7437 South Fairplay Street, Centennial, CO 80112.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	080315
Arapahoe	Unincorporated areas of Arapahoe County (21–08–1158P).	The Honorable Carrie Warren-Gully, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	080011
Douglas	Town of Parker (21–08–1158P).	The Honorable Jeff Toborg, Mayor, Town of Parker, 20120 East Main Street, Parker, CO 80138.	Public Works and Engineering Department, 20120 East Main Street Parker, CO 80138.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	080310
Douglas	Unincorporated areas of Douglas County (21–08–1158P).	The Honorable Abe Laydon, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public Works Department, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 7, 2023	080049
Douglas	Unincorporated areas of Douglas County (22–08–0219P).	The Honorable Abe Laydon, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public Works Department, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	080049
El Paso	City of Colorado Springs (22–08–0112P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	City Hall, 30 South Nevada Avenue, Colorado Springs, CO 80903.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	080060
El Paso	City of Colorado Springs (22–08–0120P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2023	080060
El Paso	City of Manitou Springs (22–08–0120P).	The Honorable John Graham, Mayor, City of Manitou Springs, 606 Manitou Avenue, Manitou Springs, CO 80829.	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2023	080063
El Paso	Unincorporated areas of El Paso (22–08–0112P).	The Honorable Cami Bremer, Chair, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	080059
El Paso	Unincorporated areas of El Paso (22–08–0120P).	The Honorable Cami Bremer, Chair, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2023	080059
Jefferson	Unincorporated areas of Jefferson (22–08–0273P).	The Honorable Andy Kerr, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2023	080087

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Florida:						
Charlotte	Unincorporated areas of Charlotte County (22–04–5841P).	The Honorable Bill Truex, Chair, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Building Department, 18400 Murdock Circle, Port Charlotte, FL 33948.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 16, 2023	120061
Monroe	Village of Islamorada (23–04–0523P).	The Honorable Joseph Buddy Pinder III, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 15, 2023	120424
Nevada: Clark	City of Henderson (22–09–1748P).	Richard Derrick, Manager, City of Henderson, 240 South Water Street, Henderson, NV 89015.	City Hall, 240 South Water Street, Henderson, NV 89015.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 21, 2023	320005
North Carolina:						
Orange	Town of Chapel Hill (22–04–2985P).	The Honorable Pam Hemminger, Mayor, Town of Chapel Hill, 405 Martin Luther King Jr. Boulevard, Chapel Hill, NC 27514.	Town Hall, 405 Martin Luther King Jr. Boulevard, Chapel Hill, NC 27514.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 28, 2023	370180
Rockingham	City of Eden (22–04–5301P).	The Honorable Neville Hall, Mayor, City of Eden, 308 East Stadium Drive, Eden, NC 27288.	Planning and Inspections Department, 308 East Stadium Drive, Eden, NC 27288.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 13, 2023	370206
Texas:						
Bexar	City of San Antonio (22–06–1471P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480045
Bexar	City of San Antonio (22–06–1722P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 3, 2023	480045
Bexar	Unincorporated areas of Bexar County (22–06–1722P).	The Honorable Peter Sakai, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78205.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 3, 2023	480035
Collin	Unincorporated areas of Collin County (22–06–2276P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 26, 2023	480130
Ellis	City of Grand Prairie (22–06–2161P).	Steve Dye, Manager, City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053.	City Hall, 300 West Main Street, Grand Prairie, TX 75050.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 3, 2023	485472
Ellis	City of Midlothian (22–06–2960P).	The Honorable Richard Reno, Mayor, City of Midlothian, 104 West Avenue E, Midlothian, TX 76065.	Engineering Department, 104 West Avenue E, Midlothian, TX 76065.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 14, 2023	480045
McLennan	City of Bellmead (21–06–2238P).	The Honorable Travis Gibson, Mayor City of Bellmead, 3015 Bellmead Drive, Bellmead, TX 76705.	Department of Public Works, 3015 Bellmead Drive, Bellmead, TX 76705.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480457
McLennan	City of Beverly Hills (21–06–2238P).	Priscilla Trejo-Serrato, Acting Mayor, City of Beverly Hills, 3418 Memorial Drive, Beverly Hills, TX 76711.	City Hall, 3418 Memorial Drive, Beverly Hills, TX 76711.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480925
McLennan	City of Hewitt (20–06–3502P).	The Honorable Steve Fortenberry, Mayor, City of Hewitt, 200 Patriot Court, Hewitt, TX 76643.	Community Services Department, 103 Patriot Court, Hewitt, TX 76643.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2023	480458

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
McLennan	City of McGregor (21–06–2238P).	The Honorable James S. Hering, Mayor, City of McGregor, 488 Windsor Road, McGregor, TX 76657.	Community Development Department, 302 South Madison Street, McGregor, TX 76657.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480459
McLennan	City of Robinson (20–06–3502P).	The Honorable Bert Echterling, Mayor, City of Robinson, 111 West Lyndale Drive, Robinson, TX 76706.	City Hall, 111 West Lyndale Drive, Robinson, TX 76706.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2023	480460
McLennan	City of Waco (20–06–3502P).	The Honorable Dillon Meek, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	Public Works Department, 401 Franklin Avenue, Waco, TX 76701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2023	480461
McLennan	City of Waco (21–06–2238P).	The Honorable Dillon Meek, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	Public Works Department, 401 Franklin Avenue, Waco, TX 76701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480461
McLennan	City of Woodway (20–06–3502P).	Shawn Oubre, Manager, City of Woodway, 922 Estates Drive, Woodway, TX 76712.	Community Services and Development Department, 922 Estates Drive, Woodway, TX 76712.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2023	480462
McLennan	Unincorporated areas of McLennan County (20–06–3502P).	The Honorable Scott M. Felton, McLennan County Judge, 501 Washington Avenue, Room 214, Waco, TX 76701.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 8, 2023	480456
McLennan	Unincorporated areas of McLennan County (21–06–2238P).	The Honorable Scott M. Felton, McLennan County Judge, 501 Washington Avenue, Suite 214, Waco, TX 76701.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	480456

[FR Doc. 2023–09785 Filed 5–8–23; 8:45 am]

BILLING CODE 9111–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Request for applicants for appointment to the Federal Emergency Management Agency's Technical Mapping Advisory Council.

SUMMARY: The Federal Emergency Management Agency (FEMA) is requesting qualified individuals interested in serving on the Technical Mapping Advisory Council (TMAC) apply for appointment. The TMAC, as established in the Biggert-Waters Flood Insurance Reform Act of 2012, makes recommendations to the FEMA Administrator on how to improve, in a cost-effective manner, the accuracy, general quality, ease of use, distribution, and dissemination of Flood Insurance Rate Maps (FIRMs) and risk data; and to define performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States. The appointments are for 3 years each and applicants will be considered for three vacancies on the TMAC.

DATES: Applications will be accepted until 11:59 p.m. ET on May 31, 2023.

ADDRESSES: Applications for membership should be submitted by one of the following methods:

- *Email: FEMA-TMAC@fema.dhs.gov.*
- *Mail:* FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, Attn: Brian Koper, 400 C Street SW, Suite 6NW–1412, Washington, DC 20472–3020.

FOR FURTHER INFORMATION CONTACT: Brian Koper, Designated Federal Officer for the TMAC, FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, 400 C Street SW, Suite 6NW–1412, Washington, DC 20472–3020, (202) 733–7859, *FEMA-TMAC@fema.dhs.gov.* The TMAC website is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: The TMAC is an advisory committee established by the Biggert-Waters Flood Insurance Reform Act of 2012, 42 U.S.C. 4101a, in accordance with provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. ch. 10 (Pub. L. 117–286). The TMAC makes recommendations to FEMA on mapping-related issues and activities, including mapping standards and guidelines, performance metrics and milestones, map maintenance, interagency and intergovernmental coordination, map accuracy, and funding strategies. In addition, the TMAC submits an annual report to the FEMA Administrator that contains: (1) a description of the activities of the Council; (2) an evaluation of the status and performance of FIRMs and mapping activities to revise and update FIRMs; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Members of the TMAC will be appointed based on their demonstrated knowledge and competence in areas such as surveying, cartography, remote sensing, geospatial information systems, or the technical aspects of preparing and using FIRMs. In order for FEMA to maximize the impact of the Council and the guidance it provides, the Council must be diverse with regard to professional and technical expertise. FEMA is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people.

FEMA is requesting qualified individuals who are interested in serving on the TMAC to apply for

appointment. Applicants will be considered for appointment to three vacancies on the TMAC, the terms of which start in summer/fall 2023. One of these three vacancies, as described below, will be appointed to serve as Special Government Employees (SGE) as defined in title 18 U.S.C. 202(a) to serve in their individual capacity, while the other two members of the TMAC will be appointed to serve as representative members. Representative members are appointed to provide the perspective of the organization that they represent. The candidate selected for appointment as an SGE will be subject to the Federal conflict of interest laws and standard of conduct regulations and required to file a New Entrant Confidential Disclosure Report (OGE 450). This form can be obtained by visiting the website of the Office of Government Ethics (*http://www.oge.gov*); please do not submit this form with your application. Qualified applicants will be considered for one or more of the following membership categories with vacancies:

(a) One member of a recognized regional flood and stormwater management organization;

(b) One member (SGE) of a recognized risk management association or organization;

(c) One representative of a recognized professional association or organization representing State geographic information;

Members of the TMAC serve terms of three years. There is no application form. However, applications must include the following information:

- Applicant's full name;
- Home and business phone numbers;
- Preferred email address;
- Home and business mailing addresses;
- Current position title and organization;
- Resume or curriculum vitae; and
- The membership category of interest (*e.g.,* member of a recognized professional association or organization representing flood hazard determination firms).

The TMAC meets as often as needed to fulfill its mission, but not less than twice a year. Members may be reimbursed for travel and per diem incurred in the performance of their duties as members of the TMAC. All travel for TMAC business must be approved in advance by the Designated Federal Officer.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all its recruitment actions. Current DHS and FEMA employees will not be considered for membership. Federally registered lobbyists will not be considered.

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Insurance and Mitigation Administration | Resilience.

[FR Doc. 2023–09851 Filed 5–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2335]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain

management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Boulder	City of Boulder (22–08–0586P).	The Honorable Aaron Brockett, Mayor, City of Boulder, 1777 Broadway Street, Boulder, CO 80306.	City Hall, 1777 Broadway Street, Boulder, CO 80306.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 17, 2023	080024
Denver	City and County of Denver (21–08–0294P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 300, Denver, CO 80202.	Department of Transportation and Infrastructure, 201 West Colfax Avenue, Department 608, Denver, CO 80202.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 24, 2023	080046
Grand	Town of Fraser (22–08–0389P).	Ed Cannon, Manager, Town of Fraser, P.O. Box 370, Fraser, CO 80442.	Planning Department, 153 Fraser Avenue, Fraser, CO 80442.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 23, 2023	080073
Grand	Unincorporated areas of Grand County (22–08–0389P).	Edward T. Moyer, Grand County Manager, P.O. Box 264, Hot Sulphur Springs, CO 80451.	Grand County Community Development Department, 308 Byers Avenue, Hot Sulphur Springs, CO 80451.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 23, 2023	080280
Florida:						
Collier	City of Naples (22–04–5499P).	Jay Boodheshwar, Manager, City of Naples, 735 8th Street South, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2023	125130
Hillsborough	City of Plant City (22–04–3498P).	Bill McDaniel, Manager, City of Plant City, 302 West Reynolds Street, Plant City, FL 33563.	City Hall, 302 West Reynolds Street, Plant City, FL 33563.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 20, 2023	120113
Hillsborough	City of Tampa (23–04–0603P).	The Honorable Jane Castor, Mayor, City of Tampa, 306 East Jackson Street, Tampa, FL 33602.	Planning Department, 1400 North Boulevard, Tampa, FL 33607.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 27, 2023	120114
Palm Beach	Unincorporated areas of Palm Beach County (22–04–0127P).	Verdenia C. Baker, Palm Beach County Administrator, 301 North Olive Avenue, Suite 1101, West Palm Beach, FL 33401.	Palm Beach County Planning, Zoning, and Building Department, 2300 North Jog Road, West Palm Beach, FL 33411.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 24, 2023	120192
Volusia	City of Edgewater (22–04–4207P).	The Honorable Diezel DePew, Mayor, City of Edgewater, P.O. Box 100, Edgewater, FL 32132.	Stormwater Department, 409 Mango Tree Drive, Edgewater, FL 32132.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 14, 2023	120308
Volusia	Unincorporated areas of Volusia County (22–04–4207P).	George Recktenwald, Manager, Volusia County, 123 West Indiana Avenue, DeLand, FL 32720.	Volusia County Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, FL 32720.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 14, 2023	125155
New Mexico:						
Curry	City of Clovis (22–06–0491P).	The Honorable Mike Morris, Mayor, City of Clovis, 321 North Connelly Street, Clovis, NM 88101.	City Hall, 321 North Connelly Street, Clovis, NM 88101.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	350010
Curry	Unincorporated areas of Curry County (22–06–0491P).	Lance A. Pyle, Curry County Manager, 417 Gidding Street, Suite 100, Clovis, NM 88101.	Curry County Clerk's Office, 417 Gidding Street, Suite 130, Clovis, NM 88101.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	350127
South Carolina:						
Berkeley	Town of Moncks Corner (22–04–1920P).	The Honorable Michael A. Lockliear, Mayor, Town of Moncks Corner, P.O. Box 700, Moncks Corner, SC 29461.	Community Development Department, 118 Carolina Avenue, Moncks Corner, SC 29461.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 20, 2023	450031

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Berkeley	Unincorporated areas of Berkeley County (22–04–1920P).	The Honorable Johnny Cribb, Supervisor, Berkeley County Council, 1003 North Highway 52, Moncks Corner, SC 29461.	Berkeley County Building and Codes Enforcement Department, 1003 North Highway 52, Moncks Corner, SC 29461.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 20, 2023	450029
Texas:						
Collin.	City of Lucas (22–06–1259P).	The Honorable Jim Olk, Mayor, City of Lucas, 665 Country Club Road, Lucas, TX 75002.	Public Works Department, 665 Country Club Road, Lucas, TX 75002.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 26, 2023	481545
Collin	City of Parker (22–06–1259P).	The Honorable Lee Pettle, Mayor, City of Parker, 5700 East Parker Road, Parker, TX 75002.	Public Works Department, 5700 East Parker Road, Parker, TX 75002.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 26, 2023	480139
Collin	Unincorporated areas of Collin County (22–06–1259P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 26, 2023	480130
Dallas	City of Dallas (22–06–2590P).	The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Oak Cliff Municipal Center, 320 East Jefferson Blvd. Suite 312, Dallas, TX 75203.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 20, 2023	480171
Fannin	Unincorporated areas of Fannin County (22–06–0044P).	The Honorable Randy Moore, Fannin County Judge, 101 East Sam Rayburn Drive, Suite 214, Bonham, TX 75418.	Fannin County Emergency Management Department, 2375 Silo Road, Bonham, TX 75418.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 5, 2023	480807
Starr	City of Rio Grande City (22–06–2596P).	The Honorable Joel Villarreal, Mayor, City of Rio Grande City, 5332 East Highway 83, Rio Grande City, TX 78582.	City Hall, 101 South Washington Street, Rio Grande City, TX 78582.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 14, 2023	481678
Starr	Unincorporated areas of Starr County (22–06–2596P).	The Honorable Eloy Vera, Starr County Judge, 100 North F.M. 3167, Rio Grande City, TX 78582.	Starr County Courthouse Annex, 100 North F.M. 3167, Rio Grande City, TX 78582.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 14, 2023	480575
Tarrant	City of Fort Worth (22–06–2617P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 20, 2023	480596
Tarrant	City of Keller (22–06–2447P).	The Honorable Armin R. Mizani, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	Town Hall, 1100 Bear Creek Parkway, Keller, TX 76248.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 24, 2023	480602
Travis	City of Round Rock (22–06–0823P).	The Honorable Craig Morgan, Mayor, City of Round Rock, 221 East Main Street, Round Rock, TX 78664.	City Hall, 221 East Main Street, Round Rock, TX 78664.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 10, 2023	481048
Travis	Unincorporated areas of Travis County (22–06–0823P).	The Honorable Andy Brown, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 10, 2023	481026
Williamson	Unincorporated areas of Williamson County (22–06–2448P).	The Honorable Bill Gravell, Jr., Williamson County Judge, Mayor, City of Keller, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Engineering Department, 3151 Southeast Inner Loop, Georgetown, TX 78626.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 13, 2023	481079
Utah:						
Washington	City of St. George (22–08–0422P).	John Willis, Manager, City of St. George, 175 East 200 North, St. George, UT 84770.	Public Works and Engineering Department, 175 East 200 North, St. George, UT 84770.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 30, 2023	491177
Virginia:						
Loudoun	Unincorporated areas of Loudoun County (22–03–1016P).	Tim Hemstreet, Loudoun County Administrator, 1 Harrison Street, Southeast, 5th Floor, Leesburg, VA 20175.	Loudoun County Government Center, 1 Harrison Street Southeast, 3rd Floor, MSC #60, Leesburg, VA 20175.	*https://msc.fema.gov/portal/advanceSearch.*	Jul. 10, 2023	510090

[FR Doc. 2023–09791 Filed 5–8–23; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7076–N–13]

60-Day Notice of Proposed Information Collection: Section 8 Management Assessment Program (SEMAP) Certification; OMB Control No. 2577–0215

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 10, 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 4176, Washington, DC 20410–5000; or email at *PaperworkReductionActOffice@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email 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: Section 8 Management Assessment Program (SEMAP).

OMB Control Number: 2577–0215.

Type of Request: Reinstatement, without change, of previously approved collection for which approval has expired.

Agency Form Numbers: HUD–52658.

Description of the Need for the Information and Proposed Use: On an annual basis (or every two years for small agencies) PHAs are required to submit a SEMAP certification (form HUD–52648) electronically into the Information Management System/Public and Indian Housing Information Center (IMS/PIC). There is a maximum of 15 indicators that are either verified through PIC data or an on-site or off-site confirmatory review. HUD uses the PHA's SEMAP certification, together with other available data, to assess PHA management capabilities and deficiencies, and to assign an overall performance rating to each PHA administering a HCV program. HUD rates a PHA on each SEMAP indicator, completes a PHA SEMAP profile identifying any program management deficiencies and assigns an overall performance rating. A PHA's written report of correction of a SEMAP deficiency is used as documentation that the PHA has taken action to address identified program weaknesses. Where HUD assigns an overall performance rating of troubled, the PHA's corrective action plan is used to monitor the PHA's progress on program improvements.

Respondents: Public Housing Agencies.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
SEMAP Certification	2,167	1	2,167	12	26,004	985.101.
Corrective Action Plan	80	1	80	10	800	985.107(c).
Report on Correction of SEMAP Deficiency.	542	1	542	2	1,084	985.106.
Total Annual Burden					27,888	

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,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2023–09754 Filed 5–8–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AK_FRM_MO4500170435; AA–11875]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) hereby provides constructive notice that it will issue an appealable decision approving conveyance of the surface and subsurface estates in certain lands to Bristol Bay Native Corporation, an Alaska Native regional corporation, pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA), as amended.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the time limits set out in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You may obtain a copy of the decision from the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Alban Burton, Land Law Examiner, Branch of Adjudication, BLM Alaska State Office, 907–271–1312 or *aburton@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. 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: As required by 43 CFR 2650.7(d), notice is hereby given that the BLM will issue an appealable decision to Bristol Bay Native Corporation. The decision approves conveyance of the surface and subsurface estates in certain lands pursuant to ANCSA (43 U.S.C. 1601, *et seq.*), as amended.

The lands are located within the Togiak National Wildlife Refuge, in the following township, and aggregate 8.27 acres: T. 16 S, R. 63 W, Seward Meridian, Alaska. The decision addresses public access easements, if any, to be reserved to the United States pursuant to sec. 17(b) of ANCSA (43 U.S.C. 1616(b)), in the lands approved for conveyance.

The BLM will also publish notice of the decision once a week for four consecutive weeks in the Bristol Bay Times and Dutch Harbor Fisherman newspaper.

Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 8, 2023 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by facsimile will not be accepted as timely filed.

Alban Burton,

Land Law Examiner, Branch of Adjudication.

[FR Doc. 2023–09782 Filed 5–8–23; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035804; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Maine State Museum, Augusta, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Maine State Museum has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from Penobscot, Washington, Hancock, and Knox Counties, ME.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after June 8, 2023.

ADDRESSES: Dr. Paula T. Work, Curator of Systematic Collections, Maine State Museum, 83 SHS, Augusta, ME 04333–0083, telephone (207) 287–6604, email *paula.work@maine.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Maine State Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Maine State Museum.

Description

In 1926, human remains representing, at minimum, one individual were removed from Eddington Bend, ME74.8, in Penobscot County, ME. These human remains were transferred to the Maine State Museum in 1982 by the Brick Store Museum (from its W.B. Smith collection). Red Ocher grave H contained heavily burned skull and long-bone fragments belonging to an individual of indeterminate age and sex. Based on a radiocarbon date of 3,590 ±60 BP (on charcoal), these human remains date to the Archaic Period (Susquehanna Tradition). No known individual was identified. The five associated funerary objects are two pieces of ocher, one fire kit, and two mammal bones.

In 1926, human remains representing, at minimum, one individual were removed from Eddington Bend, ME74.8, in Penobscot County, ME. These human remains were transferred to the Maine State Museum in 1982 by the Brick Store Museum (from its W.B. Smith collection). Red Ocher grave J contained heavily burned tooth enamel belonging to an individual of indeterminate age and sex. Based on burial style and associated artifacts, these human remains date to the Archaic Period (4,500–3,800 BP). No known individual was identified. The three associated funerary objects are a piece of ocher, a celt, and a worked stone.

In 1926, human remains representing, at minimum, one individual were removed from Eddington Bend, ME74.8,

in Penobscot County, ME. These human remains were transferred to the Maine State Museum in 1982 by the Brick Store Museum (from its W.B. Smith collection). Red Ocher grave K contained heavily burned tooth enamel belonging to an individual of indeterminate age and sex. Based on burial style and associated artifacts, these human remains date to the Archaic Period (4,500–3,800 BP). No known individual was identified. The three associated funerary objects are a piece of ocher, a piece of limonite, and a soil sample.

In 1926, human remains representing, at minimum, one individual were removed from Eddington Bend, ME74.8, in Penobscot County, ME. These human remains were transferred to the Maine State Museum in 1982 by the Brick Store Museum (from its W.B. Smith collection). Cremation pit 8 contained heavily burned skull and long-bone fragments belonging to an individual of indeterminate age and sex. Based on burial style and associated artifacts, these human remains date to the Archaic Period (3,800–3,500). No known individual was identified. The eight associated funerary objects are six celts, one scraper, and one animal bone.

In 1926, human remains representing, at minimum, one individual were removed from Eddington Bend, ME74.8, in Penobscot County, ME. These human remains were transferred to the Maine State Museum in 1982 by the Brick Store Museum (from its W.B. Smith collection). Three unprovenienced cremation samples include heavily burned skull, mandible, metacarpal or metatarsal, and long-bone fragments belonging to an individual of indeterminate age and sex. Age and sex are indeterminate. These human remains most likely date to the Archaic Period (4,500–3,500 BP). No known individual was identified. The two associated funerary objects are animal bone fragments.

On an unknown date, human remains representing, at minimum, one individual were removed from Canal Bank, Grand Lake Stream Plantation, ME94.27, in Washington County, ME. These human remains were transferred to the Maine State Museum on December 8, 1982, by the Maine Historic Preservation Commission (from the Ed Brown archeological collection, which had been purchased at auction). The human remains—a calcined cranial fragment—belong to a juvenile of indeterminate sex. Based on artifacts found at the site, these human remains most likely date to the Archaic Period (4,500–3,500 BP). No known individual was identified. The one associated funerary object is a piece of ocher.

On an unknown date, human remains representing, at minimum, one individual were removed from Boynton Point, Lamoine, ME43.4, in Hancock County, ME. These human remains were transferred to the Maine State Museum by Connecticut Historical Society on unknown date. The human remains—a humerus fragment—belong to an individual of indeterminate age and sex. Based on artifacts found at the site, these human remains date to the Ceramic Period. No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from Harbor Island, Brooklin, ME30.3, in Hancock County, ME. These human remains were donated to the Maine State Museum in 1979 by Benjamin Smith. The human remains—one molar, one premolar, and one incisor or canine—belong to an adult of indeterminate sex. These human remains most likely date to the Ceramic Period. No known individual was identified. No associated funerary objects are present.

In 1972, human remains representing, at minimum, 11 individuals were removed from the Crocker site, North Haven, ME29.81, Features 3 & 4, in Knox County, ME. These human remains were recovered during an excavation by the Maine State Museum. Feature 4 pit contained the human remains of the following 10 individuals: one infant 8–16 months old; one juvenile 2–4 years old; two juveniles 4–8 years old; one juvenile 7–11 years old; one sub-adult 16–20 years old; two adults 20–24 years old; one adult 35–40 years old and probably male; and one adult 35–40 years old and probably female. Feature 3 pit contained the human remains of one individual 40–55 years old and of indeterminate sex. Based on a radiocarbon date from feature 4, these human remains date to the Ceramic Period (1,165 ±125 BP). No known individuals were identified. No associated funerary objects are present.

In 1978, human remains representing, at minimum, one individual were removed from Drinking Place Brook, Vinalhaven, ME29.151, in Knox County, ME. These human remains were recovered during an excavation by the Maine State Museum. The heavily fragmented and charred skeleton belongs to a female 18–35 years old. Based on a radiocarbon date from a bone, these human remains date to Late Ceramic Period (840 ±110). No known individual was identified. No associated funerary objects are present.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: Acts of Congress that include the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 94 Stat. 1785), the Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986 (Pub. L. 99–566, 100 Stat. 3184), and the Aroostook Band of Micmacs Settlement Act of 1991 (Pub. L. 102–171, 105 Stat. 1143); the legislative history of the above Acts of Congress; and other relevant, authoritative governmental determinations concerning the aboriginal occupation of lands by the Mi'kmaq Nation (*Previously* listed as Aroostook Band of Micmacs), Houlton Band of Maliseet Indians, Passamaquoddy Tribe, and the Penobscot Nation claim as their aboriginal territory.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Maine State Museum has determined that:

- The human remains described in this notice represent the physical remains of 20 individuals of Native American ancestry.
- The 22 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Houlton Band of Maliseet Indians; Mi'kmaq Nation (*Previously* listed as Aroostook Band of Micmacs); Passamaquoddy Tribe; and the Penobscot Nation.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization

not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after June 8, 2023. If competing requests for disposition are received, the Maine State Museum must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The Maine State Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09766 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035807; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Pennsylvania Museum of Archaeology and Anthropology (Penn Museum) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Hale County, AL.

DATES: Repatriation of the human remains in this notice may occur on or after June 8, 2023.

ADDRESSES: Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104–6324, telephone (215) 898–4050, email *director@pennmuseum.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Penn Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Penn Museum.

Description

In 1906, human remains representing, at minimum, two individuals were removed from an unidentified cemetery at the archeological site of Moundville (1TU500) in Hale County, AL, by Clarence Bloomfield Moore. In May of 1907, these human remains were accessioned into the collections of the Academy of Natural Sciences of Philadelphia. In 1966, the human remains were loaned to the Penn Museum, and in 1997, they were formally gifted to the Penn Museum (PM 97–606–2233). No known individuals were identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, biological, geographical, historical, kinship, linguistic, oral traditional, and other relevant information and/or expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Penn Museum has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and the present-day Muskogean speaking Tribes including the Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, the Penn Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Penn Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09769 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035805; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Maine State Museum, Augusta, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Maine State Museum has completed an inventory of human remains and

associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from Cumberland, Franklin, Sagadahoc, York, Oxford, and Knox Counties, ME.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after June 8, 2023.

ADDRESSES: Dr. Paula T. Work, Curator of Systematic Collections, Maine State Museum, 83 SHS, Augusta, ME 04333–0083, telephone (207) 287–6604, email *paula.work@maine.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Maine State Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Maine State Museum.

Description

In 1992, human remains representing, at minimum, one individual, were removed from the Ormsby Site, ME15.51, in Cumberland County, ME. These human remains were removed during an excavation contracted by Central Maine Power Company. The cremated remains from Feature 5 most likely belong to a juvenile, and they probably date to the Archaic Period (9,000–3,600 BP). No known individual was identified. The one associated funerary object is a fragment of worked animal bone (two pieces of bone combined into one element).

On an unknown date, human remains representing, at minimum, one individual, were removed from Clapboard Island, Portland, in Cumberland County, ME. These human remains were donated to the Maine State Museum in 1978 by Robert Crowley. The human remains consist of a partial femur ball, a rib fragment, and two partial phalanges. Based on ages of other Clapboard Island sites, these human remains could date to the Ceramic Period. No known individual was identified. No associated funerary objects are present.

Sometime between 1988 and the 1990s, human remains representing, at minimum, one individual, were removed by archeological field schools from Tracy Farm, Starks, ME69.11, Feature 2, in Franklin County, ME. These human remains were transferred in 1995 to the Maine State Museum from the University of Maine at Farmington Archaeology Research Center. Feature 2 contained much of a deteriorated skeleton belonging to an adult male 35–50 years old. Based on burial style and radiocarbon dating (515 ±60 BP), these human remains date to the Early Contact Period. No known individual was identified. No associated funerary objects are present.

In 1984, human remains representing, at minimum, one individual, were removed from Tracy Farm, Starks, ME69.11, in Franklin County, ME. Catalog numbers indicate that these human remains most likely were transferred to the Maine State Museum in 1995 from the University of Maine at Farmington. The human remains belong to an adult, probably male. Based on radiocarbon dating (530 ±40 BP), these human remains date to the Late Ceramic Period. No known individual was identified. No associated funerary objects are present.

In 1984 (probable date), human remains representing, at minimum, two individuals, were removed from Tracy Farm, Starks, ME69.11, in Franklin County, ME. Catalog numbers indicate that these human remains most likely were transferred to the Maine State Museum in 1995 from the University of Maine at Farmington. The human remains—skull fragments and a single molar—belong to an individual of indeterminate age and sex. Based on radiocarbon dating of site materials (515 ±60 BP), these human remains date to the Early Contact Period. No known individual was identified. No associated funerary objects are present.

In 1978, human remains representing, at minimum, one individual, were removed from West Bath, ME15.114, in Sagadahoc County, ME. The human remains were found eroding from a riverbank. That same year, these human remains were transferred to the Maine State Museum from the State Medical Examiner's office. The human remains belong to a female 18–21 years old. Based on radiocarbon dating (625 ±105 BP), these human remains date to the Late Ceramic Period. No known individual was identified. No associated funerary objects are present.

In 1962, human remains representing, at minimum, one individual, were removed from Basin site, Phippsburg, ME15.20 in Sagadahoc County, ME. These human remains were donated to the Maine State Museum in 1963 by the Maine Archaeological Society. The human remains—a skeleton—belong to a female 25–35 years old. Based on radiocarbon dating (863 ±47 BP), these human remains date to the Late Ceramic Period. No known individual was identified. No associated funerary objects are present.

In 2000, human remains representing, at minimum, two individuals, were removed from Center Lovell, ME21.33, in Oxford County, ME. These human remains were salvaged from an eroding burial and that same year, were turned over to the Maine State Museum in 2000 by the Chief Medical Examiner's Office. The human remains belong to an adult and a child, and consist of the top portion of two skulls and an additional bone for the child. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual, were removed from an unknown site (likely along the banks of the Saco River) in York County, ME. These human remains were collected by Enoch Jordan of Saco and given to the Dyer Library and Saco Museum (DL/SM) in 1866 by Mrs. E.C. Jordan. The human remains were transferred to the Maine State Museum in 2003 from DL/SM. The human remains—a cranium—belong to a female of indeterminate age. No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual, were removed from the Erkkilas site, Warren, ME27.3, in Knox County, ME. The human remains were donated to the Maine State Museum in 1979 by Benjamin Smith. The human remains—a cranial fragment—belong to an individual of indeterminate age and sex. The human remains are dated to the Archaic Period, Moorehead phase (4,500–3,800 BP). No known individual was identified. The two associated funerary objects are a piece of ocher and a piece of pyrite.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of the Eastern Abenaki and other tribes that formerly occupied what is now Cumberland, Knox, Oxford, Sagadahoc, and York Counties and portions of Franklin County in the State of Maine and that are related to one or more Indian Tribes. The following information was used to identify the related Indian Tribes: Acts of Congress that include the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 94 Stat. 1785), the Houlton Band of Maliseet Indians Supplementary Claims

Settlement Act of 1986 (Pub. L. 99–566, 100 Stat. 3184), and the Aroostook Band of Micmacs Settlement Act of 1991 (Pub. L. 102–171, 105 Stat. 1143); the legislative history of those Acts of Congress; and other relevant, authoritative governmental determinations. Accordingly, it is the recommendation of the Maine State Museum that disposition of the described human remains and objects in this notice be made be to the Mi'kmaq Nation, Houlton Band of Maliseet Indians, Passamaquoddy Tribe, and the Penobscot Nation, collectively represented by the Wabanaki Intertribal Repatriation Committee.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Maine State Museum has determined that:

- The human remains described in this notice represent the physical remains of 12 individuals of Native American ancestry.
- The three objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of tribes related to the Houlton Band of Maliseet Indians; Mi'kmaq Nation (*Previously* listed as Aroostook Band of Micmacs); Passamaquoddy Tribe; and the Penobscot Nation.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after June 8, 2023. If competing requests for disposition are received, the Maine State Museum must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The Maine State Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09767 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035806; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Karshner Museum and Center for Culture & Arts, Puyallup, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Karshner Museum and Center for Culture & Arts has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Bristol Bay, AK.

DATES: Repatriation of the human remains in this notice may occur on or after June 8, 2023.

ADDRESSES: Karen S. Higgins, Karshner Museum and Center for Culture & Arts, 309 4th Street NE, Puyallup, WA 98372, telephone (253) 841–8748, email *higginsks@puyallup.k12.wa.us.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Karshner Museum and Center for Culture & Arts. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Karshner Museum and Center for Culture & Arts.

Description

Human remains representing, at minimum, one individual were removed from an unknown geographic location in Bristol Bay, AK. On an unknown date, possibly between 1953 and 1974, the human remains were donated to the Karshner Museum and Center for Culture & Arts by Dr. Donald W. Rennie, the nephew of the Museum's founder, Warner Karshner. No known individual was identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following type of information was used to reasonably trace the relationship: geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Karshner Museum and Center for Culture & Arts has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Chignik Bay Tribal Council; Chignik Lake Village; Curyung Tribal Council; Egegik Village; Igiugig Village; Ivanof Bay Tribe; King Salmon Tribe; Kokhanok Village; Levelock Village; Manokotak Village; Naknek Native Village; Native Village of Aleknagik; Native Village of Chignik Lagoon; Native Village of Ekuk; Native Village of Ekwok; Native Village of Perryville; Native Village of Pilot Point; Native Village of Port Heiden; New Koliganek Village Council; New Stuyahok Village; Newhalen Village; Nondalton Village; Pedro Bay Village; Portage Creek Village (a.k.a. Ohgsenakale); South Naknek Village; Traditional Village of Togiak; Twin Hills Village; Ugashik Village; Village of Clarks Point; and the Village of Iliamna.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, the Karshner Museum and Center for Culture & Arts must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Karshner Museum and Center for Culture & Arts is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09768 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035801; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Fish and Wildlife Service, Bismarck Field Office, Bismarck, ND

AGENCY: U.S. Fish and Wildlife Service, Department of Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Fish and Wildlife Service, Bismarck Field Office (FWS Bismarck) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were obtained from Fall River County, SD.

DATES: Repatriation of the human remains in this notice may occur on or after June 8, 2023.

ADDRESSES: Karri Springer, US Fish and Wildlife Service, Bismarck Field Office, 3425 Miriam Avenue, Bismarck, ND 58501, telephone (701) 355–8577, email *karri_springer@fws.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of FWS Bismarck. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by FWS Bismarck.

Description

On February 19, 2015, human remains representing, at minimum, two individuals were recovered from the premises of an individual in Fall River County, SD, by FWS Bismarck during a law enforcement operation. Conviction and sentencing of the individual resulted in these human remains being forfeited to the USFWS. One individual, represented by a skull with jaw—belong to an individual of unknown age and sex. Another individual, represented by a scalp with a group of human hairs—belong to an individual of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes. The following types of information were used to reasonably trace the relationship: geographical, kinship, biological, linguistic, cultural, historical, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, FWS Bismarck has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Omaha Tribe of Nebraska; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; and the Standing Rock Sioux Tribe of North & South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, FWS Bismarck must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. FWS Bismarck is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09763 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–D–COS–POL–33364; PPWODIREP0; PPMPSAS1Y.YP0000]

National Park System Advisory Board; Charter Re-Establishment

AGENCY: National Park Service, Interior.

ACTION: Notice of advisory committee re-establishment.

SUMMARY: The Secretary of the Interior intends to re-establish the National Park System Advisory Board (Board), in accordance with Federal Advisory Committee Act. The Secretary has chosen to re-establish the Board so that the Board may continue to provide advice to the Secretary on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Staff Director and Designated Federal Officer for the National Park System Advisory Board, Office of Policy, National Park Service, *joshua_winchell@nps.gov,* 202–513–7053.

SUPPLEMENTARY INFORMATION: The Board was originally authorized by the Historic Sites, Buildings and Antiquities Act of 1935. When that authority expired in 2010, the Secretary re-established the Board as a discretionary committee. The Board again terminated on January 8, 2023, when its charter expired. The Secretary is re-establishing the Board.

The advice and recommendations provided by the Board fulfill an important need within the Department of the Interior and the National Park Service, and it is necessary to re-establish the Board to ensure its work is not disrupted. The Board's members will be balanced, consistent with its charter, to represent a cross-section of disciplines and expertise relevant to the National Park Service mission. Board members will be selected from regions throughout the country.

Certification: I hereby certify that the re-establishment of the National Park System Advisory Board is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the National Park Service Organic Act (54 U.S.C. 100101(a) *et seq.*), and other statutes relating to the administration of the National Park Service.

Authority: 5 U.S.C. 10.

Dated: May 2, 2023.

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2023–09746 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035822; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mercyhurst University, Erie, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Mercyhurst University has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Ballard County, KY.

DATES: Repatriation of the human remains in this notice may occur on or after June 8, 2023.

ADDRESSES: Anne Marjenin, Mercyhurst University, 501 E 38th Street, Erie, PA 16546, telephone (814) 824–2012, email *nagpra@mercyhurst.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Mercyhurst University. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Mercyhurst University.

Description

Human remains representing, at minimum, three individuals were removed from the Wickliffe Mounds Site (15Ba4) in Ballard County, KY. The individuals (V–MAN–0009; V–MAN–0223; VM–026; V–MAN–0058; V–MAN–0105; KY–BA–TIN–0001) were removed on an unknown date by Raymond C. Vietzen (1907–1995). According to his accounts and descriptions, Vietzen visited mounds in Wickliffe, Kentucky with Colonel and Mrs. Fain King (Vietzen 1946:19). The collection location was reportedly near ''Ancient Buried City'' and possibly King Mounds. Vietzen, an avocational archeologist and author, established the Indian Ridge Museum in Elyria, Ohio, and the Archaeological Society of Ohio (formerly the Ohio Indian Relic Collectors Society). The Indian Ridge Museum, founded in the 1930s, served as Vietzen's laboratory and repository, and it remained in operation until the mid-1990s. After Vietzen's death, the facility fell into disrepair and most of the items he had acquired and housed at the museum were sold. In 1998, the Ohio Historical Society (presently the Ohio History Connection) removed ancestral human remains and some of the remaining items from the facility and temporarily housed them at the Ohio Historical Society. In October of 2003, these human remains and items were transferred from the Ohio Historical Society to Mercyhurst College (presently Mercyhurst University). No known individuals were identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Mercyhurst University has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and The Chickasaw Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, Mercyhurst University must determine

the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Mercyhurst University is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09770 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035802; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Museum of Us, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Museum of Us intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Sacramento County, CA.

DATES: Repatriation of the cultural items in this notice may occur on or after June 8, 2023.

ADDRESSES: Carmen Mosley, NAGPRA Repatriation Manager, Museum of Us, 1350 El Prado, Balboa Park, San Diego, CA 92101, telephone (619) 239–2001 Ext. 42, email *cmosley@museumofus.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Museum of Us. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by the Museum of Us.

Description

Between 1930 and 1936, 190 cultural items were removed from Wamser Mound (CV–10; CA–SAC–157) in Sacramento County, CA, by Henry Gibbs, a private collector and looter. In 1937, Paul A. Walker purchased Gibbs' Central Valley, California archeological collection. Walker was an amateur archeologist and collector who worked by himself and with other amateur archeologists, and in collaboration with the University of California and Sacramento Junior College. Over the course of his life, Walker amassed an extensive archeological collection from California's Central Valley and smaller collections from Northern and Southern California, and outside of California. In 1968, Walker's private archeological collection was acquired by the San Diego Museum of Man (now Museum of Us) through a purchase/donation transaction with Walker's widow, Bessie B. Walker. The 190 unassociated funerary objects are 12 strings of *Olivella* beads, three strings of clam shell beads, 21 *Haliotis* pendants, 128 *Haliotis* ornaments, seven miscellaneous shell ornaments, two faunal teeth, 10 faunal bone fragments, one stone bead, one charmstone fragment, three perforated slate discs, one faunal bone bead, and one bipointed faunal bone artifact.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, geographical, and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Museum of Us has determined that:

- The 190 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from the specific burial sites of Native American individuals.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Wilton Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, the Museum of Us must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Museum of Us is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09764 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0035803; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Transportation, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Alabama Department of Transportation (ALDOT) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Montgomery County, AL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after June 8, 2023.

ADDRESSES: William B. Turner, Alabama Department of Transportation, 1409 Coliseum Boulevard, Montgomery, AL 36110, telephone (334) 242–6144, email *turnerw@dot.state.al.us.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Alabama Department of Transportation. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Alabama Department of Transportation.

Description

In 2002, human remains representing, at minimum, six individuals were removed from the Madison Park Site, 1Mt318, in Montgomery County, AL, by University of South Alabama Center for Archaeological Studies archeologists under contract with ALDOT. The human remains were removed during Phase III Data Recovery excavations prior to road widening and bridge replacement of US 231. Based on analysis of material cultural remains recovered from 1Mt318, the site is considered a Late Woodland Village occupied during the Dead River (A.D. 500–700), Hope Hull (A.D. 700–900), and Autauga (A.D. 800–1100) Phases. These human remains, together with the associated funerary objects are stored at the University of Alabama Office of Archaeological Research (OAR) at Moundville, AL. No known individuals were identified. The 10 associated funerary objects are six lots of burial fill, two large animal teeth, and two freshwater mussel shells.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following type of information was used to reasonably trace the relationship: geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Alabama Department of Transportation has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The 10 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and The Muscogee (Creek) Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after June 8, 2023. If competing requests for repatriation are received, the Alabama Department of Transportation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Alabama Department of Transportation is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: May 3, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–09765 Filed 5–8–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 221S180110; S2D2S SS08011000 SX064A000 22XS501520; OMB Control Number 1029–0116]

Agency Information Collection Activities; Revisions; Renewal; and Transfer, Assignment, or Sale of Permit Rights

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before June 8, 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. Please provide a copy of your comments to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov*. Please reference OMB Control Number 1029–0116 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at (202) 208–2716. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other

Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on November 28, 2023 (87 FR 73035). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: Sections 506 and 511 of Public Law 95–87 provide that persons seeking permit revisions, renewals, transfer, assignment, or sale of their permit rights for coal mining activities submit relevant information to the regulatory authority to allow the regulatory authority to determine whether the applicant meets the requirements for the action anticipated.

Title of Collection: Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights.

OMB Control Number: 1029–0116.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Surface coal mining permit applicants and State regulatory authorities.

Total Estimated Number of Annual Respondents: 585.

Total Estimated Number of Annual Responses: 6,389.

Estimated Completion Time per Response: Varies 2 hours to 95 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 347,799.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $713,600.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2023–09869 Filed 5–8–23; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0014]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Application for Certificates of Pardon for the Offense of Simple Possession of Marijuana—E.O.

AGENCY: Office of Pardon Attorney, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Office of the Pardon Attorney, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 10, 2023.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, 950 Pennsylvania Avenue NW, Main Justice—RFK Building, Washington, DC 20530; *kira.gillespie@usdoj.gov;* (202) 616–6073.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The purpose of this collection is to gather information necessary to enable the Office of the Pardon Attorney, U.S. Department of Justice to expeditiously administer the provisions of the Executive Order 10467, a proclamation granting pardons to individuals charged or convicted of simple possession of marijuana. The collection will enable individuals to apply for certificates of pardon, restoring political, civil, and other rights by implementing a process to provide certificates of pardon as provided by the order.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Application for Certificates of Pardon for the Offense of Simple Possession of Marijuana.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Pardon Attorney.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals or households. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents, frequency, and the time per response:* The Office of the Pardon Attorney estimates that a potential pool of at least 20,000 applicants may apply. The time per response to complete the form is 10 minutes and an additional two hours for effort, such as research, phone calls, and conversations with necessary personnel to attain the appropriate documentation.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 40,000 hours. It is estimated that respondents will take two hours to complete the certificate.

7. *An estimate of the total cost burden associated with the collection:* The annual cost burden associated with this collection is $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Application	20,000	1	20,000	2	40,000
Unduplicated Totals	*20,000*	*1*	*20,000*		*40,000*

If additional information is required contact: John R. Carlson, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: May 3, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–09874 Filed 5–8–23; 8:45 am]

BILLING CODE 4410–29–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 3, 2023, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of South Carolina, in the lawsuit entitled *United States* v. *3V Sigma USA, Inc.,* Civil Action No. 2:23–cv–01832–DCN.

The United States' complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's National Emission Standard for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing by the defendant at its specialty chemical manufacturing plant in Georgetown, South Carolina. The Consent Decree requires the defendant to perform injunctive relief and pay a $731,250 civil penalty.

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* v. *3V Sigma USA, Inc.,* D.J. Ref. No. 90–5–2–1–12383. 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 downloaded and examined from this Justice Department website: *https://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 $22.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $13.

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–09773 Filed 5–8–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claim for Compensation by a Dependent Information Reports

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-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 June 8, 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 forms included in this information collection are used to request information for entitlement to claim benefits under the Federal Employees' Compensation from Federal employees, as well as their dependents or survivors, to prove continued eligibility for benefits, to show entitlement to remaining compensation payments of a deceased employee, and to show dependency. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 2, 2023 (88 FR 7109).

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–OWCP.

Title of Collection: Claim for Compensation by a Dependent Information Reports.

OMB Control Number: 1240–0013.

Affected Public: Private Sector—Individuals or households.

Total Estimated Number of Respondents: 1,241.

Total Estimated Number of Responses: 1,241.

Total Estimated Annual Time Burden: 1,063 hours.

Total Estimated Annual Other Costs Burden: $556.00.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–09758 Filed 5–8–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for UL LLC, as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the final decision to add one test standard to the NRTL Program's List of Appropriate Test Standards.

DATES: The expansion of the scope of recognition becomes effective on May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–2300 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of UL LLC, (UL) as a NRTL. UL's expansion covers the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by NRTLs or applicant organizations for initial recognition, as well as for expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details that NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

UL submitted an application, dated October 4, 2020 (OSHA–2009–0025–0047), to expand recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing UL's expansion application in the **Federal Register** on March 14, 2023 (88 FR 15738). The agency requested comments by March 29, 2023, but it received no comments in response to this notice.

To obtain or review copies of all public documents pertaining to the UL application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. Docket No. OSHA–2009–0025 contains all materials in the record concerning UL's recognition. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

II. Final Decision and Order

OSHA staff examined UL's expansion application, its capability to meet the requirements of the test standard, and other pertinent information. Based on its review of this evidence, OSHA finds that UL meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with

this final notice to grant UL's expanded scope of recognition. OSHA limits the expansion of UL's recognition to testing and certification of products for demonstration of conformance to the test standard listed below in Table 1.

TABLE 1—APPROPRIATE TEST STANDARD FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
* UL 2525	Standard for Two-Way Emergency Communications Systems for Rescue Assistance.

* Represents the standard that OSHA is adding to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA also announces the final decision to add one new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2 below lists the standard that is new to the NRTL Program. OSHA has determined that this test standard is an appropriate test standard and will add it to the NRTL Program's List of Appropriate Test Standards.

TABLE 2—STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 2525 ...	Standard for Two-Way Emergency Communications Systems for Rescue Assistance.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 01–00–004, Chapter 2, Section VIII), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL must abide by the following conditions of the recognition:

1. UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. UL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of UL as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on May 2, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–09761 Filed 5–8–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

DATES: The expansion of the scope of recognition becomes effective on May 9, 2023.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–2300 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Intertek Testing Services NA, Inc. (ITSNA) as a NRTL. ITSNA's expansion covers the addition of two test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

ITSNA submitted an application, dated February 15, 2021 (OSHA–2007–0039–0038), to expand the recognition to include two additional test standards.

OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing ITSNA's expansion application in the **Federal Register** on March 15, 2023 (88 FR 16035). The agency requested comments by March 30, 2023, but it received no comments in response to this notice. OSHA is now proceeding with this final grant of expansion of ITSNA's NRTL recognition.

Docket No. OSHA–2007–0039 contains all materials in the record concerning ITSNA's recognition. To obtain or review copies of all public documents pertaining to ITSNA's expansion application, go to *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 for assistance in locating docket submissions.

II. Final Decision and Order

OSHA staff examined ITSNA's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant ITSNA's expanded scope of recognition. OSHA limits the expansion of ITSNA's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61730–1 ...	Photovoltaic (PV) Module Safety Qualification—Part 1: Requirements for Construction.
UL 61730–2 ...	Photovoltaic (PV) Module Safety Qualification—Part 2: Requirements for Testing.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

A. Conditions

Recognition is contingent on continued compliance with 29 CFR 1910.7, including, but not limited to, abiding by the following conditions of the recognition:

1. ITSNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. ITSNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. ITSNA must continue to meet the requirements for recognition, including all previously published conditions on ITSNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of ITSNA as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on May 2, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–09762 Filed 5–8–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Description of Coal Mine Work and Other Employment (CM–913) OMB Control Number: 1240–0035.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Description of Coal Mine Work and Other Employment''. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by July 10, 2023.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Program, Division of Coal Mine Workers' Compensation, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* provides for the payment of benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment, and their dependents and survivors. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor is asked to complete a CM–913 to compare coal mine work to non-coal mine work. This employment information along with medical information is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment. This information

collection is currently approved for use through August 31, 2020. The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* and 20 CFR 718.204(b)(1) authorizes this information collection.

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 under the PRA 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 Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1240–0035.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP–DCMWC.

Type of Review: Revision.

Title of Collection: Description of Coal Mine Work and Other Employment.

Form: Description of Coal Mine Work and Other Employment, CM–913.

OMB Control Number: 1240–0035.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,710.

Frequency: One time.

Total Estimated Annual Responses: 4,710.

Estimated Average Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 2,355 hours.

Total Estimated Annual Other Cost Burden: $2,374.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: May 5, 2023.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2023–09759 Filed 5–8–23; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 23–039]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than May 24, 2023 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than May 24, 2023 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to phone: (202) 358–0646.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in U.S. Patent Number 7,977,411 entitled ''Foam/Aerogel Composite Materials For Thermal And Acoustic Insulation And Cryogen Storage,'' to NOVAdev, having its principal place of business in Huntington Beach, California. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Trenton J. Roche,

Agency Counsel for Intellectual Property.

[FR Doc. 2023–09792 Filed 5–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 23–040]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-

exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than May 24, 2023 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than May 24, 2023 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to phone: (202) 358–0646.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in U.S. Patent Number 7,977,411 entitled ''Foam/Aerogel Composite Materials For Thermal And Acoustic Insulation And Cryogen Storage,'' to GenH2 Corporation, having its principal place of business in Titusville, Florida. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Trenton J. Roche,

Agency Counsel for Intellectual Property.

[FR Doc. 2023–09783 Filed 5–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 23–041]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than May 23, 2023 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than May 23, 2023 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to Phone: (202) 358–0646.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in U.S. Patent Number 7,977,411 entitled ''Foam/Aerogel Composite Materials For Thermal And Acoustic Insulation And Cryogen Storage,'' to Hyperion Companies, Inc., having its principal place of business in Orange, California. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Trenton J. Roche,

Agency Counsel for Intellectual Property.

[FR Doc. 2023–09794 Filed 5–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (23–044)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP). The ASAP will hold its Second Quarterly Meeting for 2023. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight.

DATES: Thursday, May 25, 2023, 4:00 p.m. to 5:30 p.m., Central Time.

ADDRESSES: Public attendance will be virtual only. See dial-in information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa M. Hackley, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1947 or *lisa.m.hackley@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is only available telephonically. Any interested person must use a touch-tone phone to participate in this meeting. Any interested person may call the USA toll free conference call number 888–566–6133; passcode 8343253 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel limited to the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Lisa M. Hackley at *lisa.m.hackley@nasa.gov* or at (202) 358–1947 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Hackley at the email address previously noted. Written statements should be limited to the subject of safety in NASA.

The agenda for the meeting includes the following topics:

—Updates on the International Space Station Program
—Updates on the Commercial Crew Program
—Updates on the Moon to Mars Program

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–09856 Filed 5–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 23–042]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, May 31, 2023, 10:00 a.m.–4:00 p.m.; and Thursday, June 1, 2023, 10:00 a.m.–4:00 p.m., Eastern Time.

ADDRESSES: Public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Wednesday, May 31, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m782cd4151e3c71669e4f631fb9ec3ce8.*

The event number is 2761 693 9825 and the event password is 9FMbPHyiF32 (93627494 from phones and video systems). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–312–500–3163 and access code is 27616939825#93627494#.

On Thursday, June 1, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m3badd3726b5213868f9a7b0dddd40053.* The event number is 2760 942 3678 and the event password is SMrurRwR438 (76787797 from phones and video systems). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–312–500–3163 and access code is 27609423678#76787797#.

The agenda for the meeting includes the following topics:

—Science Mission Directorate (SMD) Missions, Programs and Activities

It is imperative that the meeting be held on these dates due to the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–09786 Filed 5–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral & Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Social, Behavioral & Economic Sciences (#1171).

Date and Time:

June 08, 2023—10:00 a.m.–4:00 p.m. (Eastern).

June 09, 2023—10:00 a.m.–3:00 p.m. (Eastern).

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Hybrid).

The meeting will be held in a hybrid format, with some Advisory Committee members participating in person and others participating virtually. For members of NSF and the external community, livestreaming and registration links will be available through the following page: *https://www.nsf.gov/sbe/advisory.jsp.*

Type of Meeting: Open.

Contact Persons: John Garneski, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703.292.4519.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to scientific programs and activities.

Agenda

- Welcome, Introductions, Approval of Previous Advisory Committee (AC) Meeting Summary, and Preview of Agenda
- Directorate for Social, Behavioral, and Economic Sciences (SBE) Update
- Discussion on SBE Communications
- Discussion on Social & Economic Sciences (SES) Survey Infrastructure
- National Center for Science and Engineering Statistics (NCSES) Conversation on the Federal Data Ecosystem

Dated: May 3, 2023.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2023–09757 Filed 5–8–23; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–142 and CP2023–145]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 11, 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:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–142 and CP2023–145; *Filing Title:* USPS Request to Add Priority Mail, First-Class Package Service & Parcel Select Contract 9 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 3, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* May 11, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–09828 Filed 5–8–23; 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 REGULATORY COMMISSION

[Docket Nos. MC2023–141 and CP2023–144]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 10, 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).:* MC2023–141 and CP2023–144; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 117 to

[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).

Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 2, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 10, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–09780 Filed 5–8–23; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97426; File No. SR–Phlx–2023–15]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

May 3, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2023, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx's Pricing Schedule at Options 7, Section 4, ''Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY).''

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, ''Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY).'' Specifically, Phlx proposes to amend its Qualified Contingent Cross (''QCC'') Growth Tier Rebate, in Section B of Options 7, Section 4.

Today, the Exchange offers a QCC Growth Tier Rebate to encourage Phlx members and member organizations to transact a greater number of QCC Orders on Phlx. In order to qualify for the QCC Growth Tier Rebate, a member's or member organization's total floor transaction,[3] and electronic QCC Orders and Floor QCC Orders volume (''QCC transaction volume'') must exceed 12,500,000 contracts in a given month. In addition to the aforementioned criteria, the member's or member organization's respective Phlx House Account[4] must execute QCC transaction volume of 250,000 or more contracts in excess of the member's or member organization's QCC transaction volume in January 2023. For members or member organizations with no QCC transaction volume in January 2023, the QCC transaction volume, in their respective Phlx House Account, must be 250,000 or more contracts in a given month.

The Exchange also offers an alternative qualification to achieve the QCC Growth Tier Rebate. A member's or member organization's Open Outcry Floor Transaction volume[5] in a given month must exceed 500,000 contracts. In addition to the aforementioned criteria, a member's or member organization's respective Phlx House Account must execute QCC transaction volume of 2,500,000 or more contracts in excess of the member's or member organization's QCC transaction volume in January 2023. For members or member organizations with no QCC transaction volume in January 2023, the QCC transaction volume, in their respective Phlx House Account, must be 2,500,000 or more contracts in a given month.

Today, the Exchange pays a $0.20 per contract QCC Growth Tier Rebate on a QCC Order comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. Further, the Exchange pays a $0.26 per contract QCC Growth Tier Rebate on a QCC Order comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. The Exchange pays the QCC Growth Tier Rebate on all qualifying executed electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), except where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; (iii) Professional-to-Professional; or (iv) a dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions (as defined in Options 7, Section 4). Finally, members and member organizations are entitled to one QCC Rebate in a given month, either the QCC Rebate in Section A or the QCC Growth Tier Rebate in Section B in a given month, but not both.[6]

At this time, the Exchange proposes to increase the QCC Growth Tier Rebates. The Exchange proposes to increase the current $0.20 per contract rebate to $0.22 per contract provided the QCC Order comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''floor transaction'' is a transaction that is effected in open outcry on the Exchange's trading floor. *See* Phlx Options 7, Section 1(c). Of note, the term ''floor transaction'' is more broadly defined than the term ''Open Outcry Floor Transaction'' which is discussed herein and is a subset of the term ''floor transaction''.

[4] Each Phlx member or member organization is required to establish one Phlx House Account with the Exchange's Membership Department. Only one Phlx House Account is required to transact business on Phlx. The Exchange assesses a $50.00 a month account fee for this account as provided for within Options 7, Section 8A. A Phlx member or member organization has the option of acquiring multiple Phlx House Accounts depending on a member's or member organization's business model and how they elect to organize their business.

[5] The term ''Open Outcry Floor Transaction'' includes all transactions executed in open outcry on Phlx's trading floor except: (1) dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions as defined in this Options 7, Section 4; (2) Cabinet Transactions as defined in Options 8, Section 33; and (3) Customer-to-Customer transactions.

[6] The QCC Growth Tier Rebate is available through July 31, 2023.

other side. Further, the Exchange proposes to increase the current $0.26 per contract rebate to $0.27 per contract provided the QCC Order comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

The Exchange believes that the increased rebates will incentivize members and member organizations to engage in substantial amounts of trading activity which would serve to bring additional open outcry liquidity to the trading floor and additional QCC Order Flow to Phlx. Also, this incentive should continue to encourage members and member organizations to commence sending such order flow to Phlx for the opportunity to earn this rebate until the program expires.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, 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.'' [9]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [10] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[11] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [12]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [13] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to increase the current $0.20 per contract rebate to $0.22 per contract, provided the QCC Order comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, is reasonable because the Exchange believes that the increased rebate will encourage members and member organizations to earn larger QCC rebates by executing a larger amount of floor transactions, QCC transaction volume, and Open Outcry Floor Transaction volume on Phlx's trading floor during the remaining months of the program.

The Exchange's proposal to increase the current $0.20 per contract rebate to $0.22 per contract, provided the QCC Order comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, is equitable and not unfairly discriminatory because all members and member organizations may qualify for this rebate, provided they transact the requisite volume.

The Exchange's proposal to increase the current $0.26 per contract rebate to $0.27 per contract, provided the QCC Order comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, is reasonable because the Exchange believes that the increased rebate will encourage members and member organizations to earn larger QCC rebates by executing a larger amount of floor transactions, QCC transaction volume, and Open Outcry Floor Transaction volume on Phlx's trading floor during the remaining months of the program.

The Exchange's proposal to increase the current $0.26 per contract rebate to $0.27 per contract, provided the QCC Order comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, is equitable and not unfairly discriminatory because all members and member organizations may qualify for this rebate, provided they transact the requisite volume.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The proposed amendments do not impose an undue burden on intra-market competition. In terms of intra-market competition, the Exchange's proposal to increase the current $0.20 per contract rebate to $0.22 per contract, provided the QCC Order comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, does not impose an undue burden on intra-market competition because all members and

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[10] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[11] *See NetCoalition,* at 534–535.

[12] *Id.* at 537.

[13] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

member organizations may qualify for this rebate, provided they transact the requisite volume.

The Exchange's proposal to increase the current $0.26 per contract rebate to $0.27 per contract, provided the QCC Order comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, does not impose an undue burden on intra-market competition because all members and member organizations may qualify for this rebate, provided they transact the requisite volume.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PHLX–2023–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2023–15. 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–PHLX–2023–15 and should be submitted on or before May 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–09756 Filed 5–8–23; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2023–0003]

Notice of Fee Increase for Our Electronic Consent Based Social Security Number Verification Service

AGENCY: Social Security Administration.

ACTION: Notice of fee increase.

SUMMARY: The Social Security Administration (SSA) is announcing a change in the subscription tier structure and associated fees for the electronic Consent Based Social Security Number (SSN) Verification (eCBSV) service. In accordance with statutory requirements, a permitted entity (PE) is required to provide payment to reimburse SSA for the development and support of the eCBSV system.

DATES: *Applicability date for fee increase:* The revised subscription tier structure and associated fees will go into effect for subscription payments made on or after July 10, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher David, Office of Data Exchange, Policy Publications, and International Negotiations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (866) 395–8801, email *eCBSV@ssa.gov.*

For information on eligibility or filing for benefits, call SSA's national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit SSA's internet site, Social Security Online, at *https://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Section 215 of the Economic Growth, Regulatory Relief, and Consumer Protection Act [1] (the Banking Bill) directs SSA to modify or develop a database for accepting and comparing fraud protection data [2] provided electronically by a PE.[3] In response to this statutory directive, SSA created eCBSV, a fee-based SSN verification service. eCBSV allows PEs to submit, based on the number holder's consent,[4] the SSN, name, and date of birth of the number holder in connection with a credit transaction or a circumstance described in section 604 of the Fair Credit Reporting Act to SSA

[1] Public Law 115–174, codified at 42 U.S.C. 405b.

[2] The Banking Bill defines ''Fraud Protection Data'' to mean a combination of an individual's name (including the first name and any family forename or surname), SSN, and date of birth (including month, day, and year). Public Law 115–174, title II, 215(b)(3), codified at 42 U.S.C. 405b(b)(3).

[3] The Banking Bill defines a ''permitted entity'' to mean a financial institution or service provider, subsidiary, affiliate, agent, subcontractor, or assignee of a financial institution. Public Law 115–174, title II, 215(b)(4), codified at 42 U.S.C. 405b(b)(4). They must possess an Employer Identification Number and a Dun and Bradstreet number.

[4] Under the eCBSV User Agreement, valid Written Consent must meet the requirements of applicable Federal law, SSA's regulations, and section IV of the eCBSV User Agreement. Valid Written consent must include a wet or electronic signature. Section IV.A.1. eCBSV User Agreement. Electronic signatures must meet the definition in section 106 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006). 42 U.S.C. 405b(f)(2); section IV.E. eCBSV User Agreement. The written consent must clearly specify to whom the information may be disclosed, the information you want us to disclose (*e.g.,* SSN verification) and, where applicable, during which timeframe the information may be disclosed (*e.g.,* whenever the subject individual is receiving specific services). 20 CFR 401.100.

for verification via an application programming interface. Each PE must submit a certification statement [5] that the PE is in compliance with the Banking Bill as part of their application to SSA.

SSA revised the subscription tier structure and associated fees for eCBSV in 2022 but program participation remains markedly lower than estimated by the financial industry. Limited program participation has led us to re-evaluate the fees we charge our customers.

Fees

The public cost burden is dependent upon the number of PEs using the service and the annual transaction volume. We based the revised tier fee schedule below on 20 participating PEs in fiscal year (FY) 2023 submitting an anticipated volume of 65 million transactions.[6] The total cost for developing and operating the service is $53 million through FY 2022. Of this amount, $38 million remains unrecovered/unreimbursed. The new subscription tier structure and associated fees are intended to recover these costs over a three-year period, assuming projected enrollments and transaction volumes meet these projections.

eCBSV TIER FEE SCHEDULE

Tier	Annual volume threshold	Annual fee
1	Up to 10,000 (1–10,000)	$7,000
2	Up to 200,000 (10,001–200,000)	130,000
3	Up to 1 million (200,001–1 million)	630,000
4	Up to 2.5 million (1,000,001–2.5 million)	1,500,000
5	Up to 5 million (2,500,001–5 million)	3,000,000
6	Up to 10 million (5,000,001–10 million)	4,500,000
7	Up to 15 million (10,000,001–15 million)	5,000,000
8	Up to 20 million (15,000,001–20 million)	6,250,000
9	Up to 25 million (20,000,001–25 million)	7,250,000
10	Up to 75 million (25,000,001–75 million)	8,250,000

Each enrolled PE will be required to remit the above tier-based subscription fee for the 365-day agreement period starting on or after July 10, 2023.[7] Fees are calculated based on forecasted systems and operational expenses, agency oversight, overhead, and Certified Public Accountant audit contract costs.

Section 215(h)(1)(B) of the Banking Bill requires that the Commissioner shall ''periodically adjust'' the price paid by users to ensure that amounts collected are sufficient to fully offset the costs of administering the eCBSV system. On at least an annual basis, SSA will monitor costs incurred to provide eCBSV services and will revise the tier fee schedule accordingly. We will notify PEs of the tier fee schedule in effect at the renewal of eCBSV user agreements, when a PE begins a new 365-day agreement period, and via notice in the **Federal Register**. PE renewals will be governed by the tier in effect at the time of renewal.

Michelle King,

Deputy Commissioner, Office of Budget, Finance, and Management, Social Security Administration.

[FR Doc. 2023–09753 Filed 5–8–23; 8:45 am]

BILLING CODE 4191–02–P

[5] The permitted entity must certify that (1) the entity is a permitted entity; (2) the entity is in compliance with section 215; (3) the entity is, and will remain, in compliance with its privacy and data security requirements in title V of 15 U.S.C. 6801, *et seq.,* with respect to the information the entity receives from the Commissioner of Social Security pursuant to this section; and (4) the entity will retain sufficient records to demonstrate its compliance with its certification and section 215 for a period of not less than 2 years. 42 U.S.C. 405b(e)(1)–(3).

[6] At the time we completed our evaluation in November 2022, we projected 20 participating PEs for FY 2023, and the new tiers were based on these projected 20 PEs. As more PEs join, we will capture them in our future evaluations, and adjust the tiers at that time, if necessary.

[7] As of April 25, 2022, SSA no longer charged a separate administrative fee in addition to the tier-based subscription fee.

DEPARTMENT OF STATE

[Public Notice: 12067]

Privacy Act of 1974; System of Records

AGENCY: Department of State.

ACTION: Notice of a modified system of records.

SUMMARY: The information contained within Foreign Service Institute (FSI or the ''Institute'') systems is used to provide the Institute's student information and training delivery management services to support the staff and students, and to facilitate billing services.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, except for routine uses (a) and (b) that are subject to a 30-day period during which interested persons may submit comments to the Department. Please submit any comments by June 8, 2023.

ADDRESSES: Questions can be submitted by mail, email, or by calling Eric F. Stein, the Senior Agency Official for Privacy, on (202) 485–2051. If mail, please write to: U.S Department of State; Office of Global Information Systems, A/GIS; Room 4534, 2201 C St. NW, Washington, DC 20520. If email, please address the email to the Senior Agency Official for Privacy, Eric F. Stein, at *Privacy@state.gov.* Please write ''Foreign Service Institute Records, State–14'' on the envelope or the subject line of your email.

FOR FURTHER INFORMATION CONTACT: Eric F. Stein, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 4534, 2201 C St. NW, Washington, DC 20520 or by calling (202) 485–2051.

SUPPLEMENTARY INFORMATION: This notice is being modified to reflect updated training delivery management services, the Department's move to cloud storage, new OMB guidance, access by contractors, and updated contact information. Specifically, the modified system of records notice includes substantive revisions and additions to the following sections: Summary, Dates, Supplementary Information, System Location, Purpose(s) of the Systems, Categories of Records in the Systems, Record Source Categories, Policies and Practices for Storage of Records, Policies and Practices for Retention and Disposal of Records, Policies and Practices for Retrieval of Records, Safeguards, Record

Access Procedure, and History. It also includes minor administrative updates in the following sections: Addresses, For Further Information Contact, Categories of Individuals, Routine Uses, and Systems Manager.

SYSTEM NAME AND NUMBER:

Foreign Service Institute Records, State-14.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The George P. Shultz National Foreign Service Institute, 4000 Arlington Boulevard, Arlington, VA. Some records may be stored within U.S government authorized cloud-based systems that are FedRAMP certified and overseen by the Department's IRM Enterprise Server Operations Center (ESOC), 2201 C Street NW, Washington, DC 20520.

SYSTEMS MANAGER(S):

Executive Director for Management, Foreign Service Institute, SA–42, Room F–2128, 4000 Arlington Blvd., Arlington, VA 22204, *OMISwork@state.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

5 U.S.C. 301 (Management of Executive Agencies); 22 U.S.C. 4021–4029 (chapter 7 of the Foreign Service Act of 1980).

PURPOSE(S) OF THE SYSTEM:

The information contained within Foreign Service Institute (FSI) systems is used to provide the Institute's student information and training delivery management services, to support the staff and students, and for billing services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who requested and/or received training from the Foreign Service Institute, took a language proficiency test given by the Foreign Service Institute, or received external training (including at colleges and universities) sponsored or approved by the Institute including, but not limited to: (1) employees (and eligible family members thereof) of the Department of State; (2) employees (and eligible family members thereof) of other federal agencies; (3) members (and eligible family members thereof) of the U.S. military; (4) citizens or nationals of the United States, or employees of any corporation, company, partnership, association or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States, that is engaged in business abroad, as well as immediate family members of such individuals; (5) citizens or nationals of the United States, or employees of any corporation, company, partnership, association or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States, under contract to provide services to the United States Government or any employee thereof that is performing such services; and (6) applicants for employment at the Department of State. The Privacy Act defines an individual at 5 U.S.C. 552a(a)(2) as a United States citizen or lawful permanent resident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Training request forms and supporting documentation; progress reports; evaluation reports; course grades and/or test scores; general correspondence; biographic information; educational and employment history; security clearance data; travel vouchers; fiscal, *i.e.,* payment or billing, information.

RECORD SOURCE CATEGORIES:

These records contain information that is primarily obtained from the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Foreign Service Institute Records may be disclosed:

To appropriate agencies, entities, and persons when (1) the Department of State suspects or has confirmed that there has been a breach of the system of records; (2) the Department of State has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of State (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of State efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(a.) To another Federal agency or Federal entity, when the Department of State determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(b.) To other federal agencies that send students to the Institute for training.

(c.) To non-federal organizations that send students to the Institute for training.

(d.) To universities to which the Institute sends students for training.

(e.) To other training vendors to which the Institute sends students for training.

The Department of State periodically publishes in the **Federal Register** its standard routine uses that apply to all its Privacy Act systems of records. These notices as stated below appear in the form of a Prefatory Statement (published in Volume 73, Number 136, Public Notice 6290, on July 15, 2008). All these standard routine uses apply to Foreign Service Institute Records, State-14.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored both in hard copy and on electronic media. A description of standard Department of State policies concerning storage of electronic records is found at *https://fam.state.gov/FAM/05FAM/05FAM0440.html.* All hard copies of records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by individual name, the last four digits of Social Security Number, or other unique identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA) and outlined at *https://foia.state.gov/Learn/RecordsDisposition.aspx.* Digital records in FSI systems that are no longer active are updated with an inactive flag. They remain for 60 years after the inactive status is set. FSI follows the Department of State's e-Records disposition schedule when records are 100 years old. More specific information may be obtained by writing to the following address: U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B–266; Washington, DC 20520.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All Department of State network users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified (SBU) information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Department OpenNet users are required to take the Foreign Service Institute distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Foreign Service Institute Records, a user must first be granted access to the Department of State computer system.

Department of State employees and contractors may remotely access this system of records using non-Department owned information technology. Such access is subject to approval by the Department's mobile and remote access program and is limited to information maintained in unclassified information systems. Remote access to the Department's information systems is configured in compliance with OMB Circular A–130 multifactor authentication requirements and includes a time-out function.

All Department of State employees and contractors with authorized access to records maintained in this system of records have undergone a thorough background security investigation. Access to the Department of State, its annexes, and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

The safeguards in the following paragraphs apply only to records that are maintained in government-certified cloud systems. All cloud systems that provide IT services and process Department of State information must be specifically authorized by the Department of State Authorizing Official and Senior Agency Official for Privacy.

Information that conforms with Department-specific definitions for Federal Information Security Modernization Act (FISMA) low, moderate, or high categorization are permissible for cloud usage and must specifically be authorized by the Department's Cloud Program Management Office and the Department of State Authorizing Official. Specific security measures and safeguards will depend on the FISMA categorization of the information in a given cloud system. In accordance with Department policy, systems that process more sensitive information will require more stringent controls and review by Department cybersecurity experts prior to approval. Prior to operation, all Cloud systems must comply with applicable security measures that are outlined in FISMA, FedRAMP, OMB regulations, National Institute of Standards and Technology's (NIST) Special Publications (SP) and Federal Information Processing Standards (FIPS) and Department of State policies and standards.

All data stored in cloud environments categorized above a low FISMA impact risk level must be encrypted at rest and in-transit using a federally-approved encryption mechanism. The encryption keys shall be generated, maintained, and controlled in a Department data center by the Department key management authority. Deviations from these encryption requirements must be approved in writing by the Department of State Authorizing Official. High FISMA impact risk level systems will additionally be subject to continual auditing and monitoring, multifactor authentication mechanism utilizing Public Key Infrastructure (PKI) and NIST 800 53 controls concerning virtualization, servers, storage, and networking, as well as stringent measures to sanitize data from the cloud service once the contract is terminated.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B–266; Washington, DC 20520. The individual must specify that he or she wishes the Foreign Service Institute Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that Foreign Service Institute Records include records pertaining to the individual. Detailed instructions on Department of State procedures for accessing and amending records can be found on the Department's FOIA website at *https://foia.state.gov/Request/Guide.aspx.*

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest record procedures should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B–266; Washington, DC 20520.

NOTIFICATION PROCEDURES:

Individuals who have reason to believe that this system of records may contain information pertaining to them may write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B–266; Washington, DC 20520. The individual must specify that he/she wishes the Foreign Service Institute Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that Foreign Service Institute of Records include records pertaining to the individual.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a (k)(6) records in this system of records may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(l), (e)(4)(G), (H) and (I) and (f).

HISTORY:

Previously published at 71 FR 8882 (February 21, 2006).

Eric F. Stein,

Deputy Assistant Secretary, Global Information Services (A/GIS), Department of State.

[FR Doc. 2023–09813 Filed 5–8–23; 8:45 am]

BILLING CODE 4710–34–P

DEPARTMENT OF STATE

[Public Notice: 12069]

International Security Advisory Board (ISAB) Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1009(a)(2), the Department of State announces a meeting of the International Security Advisory Board

(ISAB) to take place on June 05, 2023, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. 1009(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public because the Board will be reviewing and discussing matters properly classified in accordance with E.O. 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, outer space, critical infrastructure, cybersecurity, the national security aspects of associated technologies, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's ongoing studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, associated technologies, climate and energy security.

For more information, contact Michelle Dover, Executive Director of the International Security Advisory Board, Department of State, Washington, DC 20520, telephone: (202) 736–4930.

Michelle Dover,

Executive Director, International Security Advisory Board, Department of State.

[FR Doc. 2023–09840 Filed 5–8–23; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Spur 399 Extension Project in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. These actions grant licenses, permits, and approvals for the Spur 399 Extension Project, from US 75 to US 380 in Collin County, Texas.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the Spur 399 Extension Project will be barred unless the claim is filed on or before the deadline. For the Spur 399 Extension Project the deadline is October 6, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2358; email: *Patrick.Lee@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The Spur 399 Extension Project will construct an eight-lane freeway with frontage roads connecting US 75 with US 380. The project will add one travel lane in each direction and an exit ramp within the existing SH 5 corridor extending from the US 75/SH 5/SRT–SH 121 junction to approximately 1,500 feet south of the intersection of FM 546/Harry McKillop Boulevard and SH 5. The project will then extend Spur 399 east on new location crossing Airport Drive/Old Mill Road and continuing further east and south around the southern end of the Airport, then turning north near CR 317 to connect to US 380 east of the Airport. The project is approximately 6.25 miles in length.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Impact Statement, Record of Decision (ROD) issued on March 29, 2023, and other documents in the TxDOT project file. The Final Environmental Impact Statement, ROD, and other documents in the TxDOT project file are available by contacting the TxDOT Dallas District Office at 4777 E. Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for the Spur 299 Extension Project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the Spur 399 Extension Project in the State of Texas.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (section 404, section 401, section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of

Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2023–09760 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Opportunity for Interstate Rail Compacts

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity (NOFO or notice).

SUMMARY: This notice details the application requirements and procedures to obtain grant funding for eligible projects under the Interstate Rail Compacts Grant Program. The opportunities described in this notice are made available under Assistance Listings Number 20.328.

DATES: Applications for funding under this solicitation are due no later than 5 p.m. ET, July 10, 2023. Applications that are incomplete or received after 5 p.m. ET on July 10, 2023 will not be considered for funding. See Section D of this notice for additional information on the application process.

ADDRESSES: Applications must be submitted via *www.Grants.gov.* Only applicants who comply with all submission requirements described in this notice and submit applications through *www.Grants.gov* will be eligible for award. For any supporting application materials that an applicant is unable to submit via *www.Grants.gov,* an applicant may submit an original and two (2) copies to Mr. Marc Dixon, Office of Rail Program Development, Federal Railroad Administration, 1200 New Jersey Avenue SE, Mail Stop 20, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

FOR FURTHER INFORMATION CONTACT: For further project or program-related information in this notice, please contact the FRA NOFO Support program staff via email at *FRA-NOFO-Support@dot.gov.* If additional assistance is needed you may contact Mr. Marc Dixon, Office of Rail Program Development, Federal Railroad Administration; email: *marc.dixon@dot.gov;* phone: 202–493–0614.

SUPPLEMENTARY INFORMATION:

Notice to applicants: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the NOFO are provided in Section A.2. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and specific eligibility requirements described herein with which applicants must comply. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 15 pages in length.

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A. Program Description

1. Overview

The Interstate Rail Compacts grant program (Program) is a new competitive program that will provide financial assistance to entities implementing Interstate Rail Compacts pursuant to section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101). The purpose of the Program is to improve, promote, and develop intercity passenger rail service, including activities related to the financing of such service, and to encourage multi-state grant applications. Grants under the Program are authorized for costs of administration; systems planning, including studying the impacts on freight rail operations and ridership; promotion of intercity passenger rail operation; preparation of applications for competitive Federal grant programs; and operations coordination.

The Program is authorized in section 22306 of the Infrastructure Investment and Jobs Act, 2021, Div B, Tit. II, Public Law 117–58 (IIJA); codified at 49 U.S.C. 22910. This NOFO is funded by the advanced appropriations provided under Division J of IIJA. The opportunity described in this NOFO is made available under Assistance Listings Number 20.328, ''Interstate Rail Compacts.''

In August 2022, FRA published a Request for Information (RFI) in the **Federal Register** to solicit input from stakeholders about implementing the Program (Docket No. FRA–2022–0064). FRA received nine comments in response to the RFI. FRA considered the comments received in preparing this NOFO. Specifically, FRA incorporated feedback from commenters in providing examples of eligible activities. In addition, the RFI solicited input from stakeholders about technical support or other types of assistance FRA may be able to offer to States interested in establishing IRCs. FRA is continuing to review this feedback as it considers how to provide technical support for such endeavors.

While the discretionary grant awards funded through the Program will not directly fund rail capital projects, the activities supported by the Program will help prepare entities implementing Interstate Rail Compacts to develop rail capital projects that advance safety, economic strength and global competitiveness, equity, climate and sustainability, and transformation, consistent with the U.S. Department of Transportation's (DOT) strategic goals.[1]

Section E of this NOFO, which outlines the grant selection criteria, describes the process for selecting grant projects that further these goals. Section F.3 describes progress and performance reporting requirements for selected grant projects. This NOFO uses the term project to describe the set of activities proposed for funding in the application.

2. Definitions of Key Terms

Terms defined in this section are capitalized throughout this NOFO.

a. ''Intercity Rail Passenger Transportation'' means rail passenger transportation, except commuter rail passenger transportation. See 49 U.S.C. 22901(3). In this notice, ''Intercity Passenger Rail Service'' and ''Intercity Passenger Rail Transportation'' are equivalent terms to ''Intercity Rail Passenger Transportation.''

b. ''Interstate Rail Compact'' for the purposes of this program, means legislatively enacted agreement or compact that establishes a formal, legally binding relationship between two or more States to prepare for and provide Intercity Passenger Rail Service.

[1] DOT Strategic Goals are identified in the DOT Strategic Plan FY 2022–2026 (March 2022) at *https://www.transportation.gov/sites/dot.gov/files/2022-04/US_DOT_FY2022-26_Strategic_Plan.pdf.*

B. Federal Award Information

1. Available Award Amount

The total funding available for awards under this NOFO is $5,815,800. Should additional funds become available after the release of this NOFO, FRA may elect to award such additional funds to applications received under this NOFO.

2. Award Size

The maximum award for each railroad Interstate Rail Compact grant will be capped at $1,000,000 per year, and subsequent funding opportunities will be made available in future years. FRA anticipates making multiple awards with the available funding but may not award grants under this program for more than 10 Interstate Rail Compacts in any fiscal year. FRA may not be able to award grants to all eligible applications even if they meet or exceed the stated evaluation criteria (see Section E, Application Review Information). Projects may require more funding than is available.

3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under this NOFO will be made available to grant recipients on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grant recipient is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057.* This template is subject to revision.

4. Concurrent Applications

DOT and FRA may be concurrently soliciting applications for several financial assistance programs. Applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for funding under this NOFO, applicants must indicate the other programs and NOFOs to which they submitted or plan to submit an application for funding for the entire project or certain project components, as well as highlight new or revised information in the application responsive to this NOFO that differs from the previously submitted application(s). In addition, applicants should identify, to the extent possible, any anticipated applications for future rounds of FRA financial assistance for the project or project components.

C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, and grant project eligibility. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in Section D of this NOFO.

1. Eligible Applicants

Entities implementing Interstate Rail Compacts pursuant to section 410 of the Amtrak Reform and Accountability Reform Act of 1997 (49 U.S.C. 24101 note) are eligible applicants under this notice. Under section 410, Congress granted advance consent to States to enter into Interstate Rail Compacts in order to promote intercity passenger rail service. Entities implementing Interstate Rail Compacts means an existing entity, such as a commission, that has been established by member states to implement the Interstate Rail Compact.

Applications must identify an eligible applicant as the lead applicant. The lead applicant serves as the primary point of contact for the application, and if selected, as the grant recipient. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

2. Cost Sharing or Matching

The Federal share of total costs for Interstate Rail Compacts projects funded under this notice will not exceed 50 percent, though FRA will provide selection preference to applications where the proposed Federal share of eligible expenses under the grant is less than 50 percent. The estimated expenses must be based on the best available information and supported within the application.

The minimum 50 percent non-Federal match for Interstate Rail Compacts-funded projects may be composed of public sector (*e.g.,* state or local) and/or private sector funding. FRA will not consider any Federal financial assistance [2] nor any non-Federal funds already expended (or otherwise encumbered) toward the matching requirement, unless compliant with 2 CFR part 200. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with *2 CFR 200.306.*

Before applying, applicants should carefully review the principles for cost sharing or matching in *2 CFR 200.306.* See Section D(2)(a)(iii) for required application information on non-Federal match and Section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs consistent with *2 CFR 200.458,* as applicable. See Section D(6).

Cost sharing or matching may be used only for authorized Federal award purposes.

3. Other

Project Eligibility

Eligible expenses must be related to intercity passenger rail service to be operated by Amtrak. IRC projects consisting of the following activities are eligible for funding under 49 U.S.C. 22910 and this NOFO.

a. Costs of Administration, which include staffing costs for administrative, professional, or technical staff, or contractors serving administrative functions or providing technical oversight. Costs of administration also include the cost of activities or work products that facilitate Interstate Rail Compacts carrying out their duties effectively and timely, such as information technology, accounting, human resources, and procurement.

b. Systems Planning, consistent with FRA's Guidance on Development and Implementation of Railroad Capital Projects (January 11, 2023), is a high-level planning process that considers creating new transportation services as well as enhancing existing transportation systems. This planning process promotes a safe, efficient, and comprehensive rail system within the multi-modal national transportation system. Systems planning examines broad needs, challenges, and opportunities that can be addressed with a transportation-related solution, including capital projects. Comprehensive systems planning for a regional passenger rail network considers links with other transportation modes for seamless, integrated transportation to carry

[2] See Section D(2)(a)(iii) for supporting information required to demonstrate eligibility of Federal funds for use as match.

travelers from origin to destination within and between megaregions.

c. Promotion of intercity passenger rail operation, including marketing and advertising intercity passenger rail services. Promotional activities include website development, social media management, print materials, direct advertising, collecting customer feedback, and stakeholder outreach.

d. Preparation of applications for competitive federal grant programs, including technical staff or contractor support to prepare applications and documentation associated with preparing an application for financial assistance, such as preparing operating plans, funding plans, benefit-cost analysis, and any other documentation that is required to be provided as part of an application for a federal grant.

e. Operations Coordination, including coordinating interstate passenger rail services among states and with shared freight operations. Examples include, syncing schedules to facilitate better connections between overlapping services, identifying opportunities for creating operational efficiencies through optimizing the use of shared Amtrak resources, coordinating corridor utilization by other stakeholders such as freight rail, right of way coordination, shared maintenance, and joint procurement of services or equipment.

D. Application and Submission Information

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See Section D(2) for the application checklist. FRA welcomes the submission of additional relevant supporting documentation, such as planning, engineering and design documentation, and letters of support from partnering organizations, all of which will not count against the Project Narrative 15-page limit.

1. Address To Request Application Package

Applicants may access the application through *www.grants.gov.* Applicants must submit all application materials in their entirety through *www.Grants.gov* no later than 5 p.m. ET, on July 10, 2023. FRA reserves the right to modify this deadline. General information for submitting applications through *Grants.gov* can be found at: *https://www.fra.dot.gov/Page/P0270.* FRA is committed to ensuring that information is available in appropriate alternative formats to meet the requirements of persons who have a disability. If you require an alternative version of files provided, please contact Laura Mahoney, Office of the Chief Financial Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; email: *laura.mahoney@dot.gov;* phone: 202–578–9337.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding.

Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use. Funding sources should be grouped into three categories: non-Federal, funding requested through the IRC program, and other Federal with specific amounts from each funding source. The Department may share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program's objectives. Required documents for an application package are outlined in the checklist below.

i. Project Narrative (see D.2.a)
ii. Statement of Work (see D.2.b.i)
iii. SF424—Application for Federal Assistance
iv. Either: SF 424A—Budget Information for Non-Construction
v. Either: SF 424B—Assurances for Non-Construction projects
vi. FRA's Additional Assurances and Certifications
vii. SF LLL—Disclosure of Lobbying Activities

a. Project Narrative

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Cover Page	See D.2.a.i.
II. Project Summary	See D.2.a.ii.
III. Project Funding	See D.2.a.iii.
IV. Applicant Eligibility	See D.2.a.iv.
V. Project Eligibility	See D.2.a.v.
VI. Detailed Project Description	See D.2.a.vi.
VII. Project Location	See D.2.a.vii.
VIII. Evaluation and Selection Criteria and DOT Strategic Goals	See D.2.a.viii.
IX. Project Implementation and Management	See D.2.a.ix.

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 15 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Project Narratives beyond the 15-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the page number(s) of the relevant portion in the Project Narrative supporting documentation. The Project Narrative must adhere to the following outline.

i. *Cover Page:* Include a cover page that lists the following elements in a table:

Project Title	
Applicant	
Amount of Federal Funding Requested in this Application	$.
Proposed Non-Federal Match	$.
Was a Federal grant application previously submitted for this project?	Yes/No.
If yes, state the name of the Federal grant program and title of the activities in the previous application.	Federal Grant Program: Activity Title:

City(ies), State(s) where the activities are located.	
Has the applicant engaged in any prior corridor or service planning activities such as: Service Development Plans, State rail plans, etc.?	Yes/No. (If yes, please specify).

ii. *Project Summary:* Provide a brief 4–6 sentence summary of the project proposed under the IRC grant and what that project will entail. Include challenges the proposed project aims to address and summarize the intended outcomes and anticipated benefits that will result from the proposed project.

iii. *Project Funding:* Indicate in table format the amount of Federal funding requested, the proposed non-Federal match, identifying contributions from the private sector if applicable, and total project cost. Describe the non-Federal funding arrangement, including multiple sources of non-Federal funding if applicable. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. If Federal funding is proposed as match, provide the applicant's determination of eligibility for such use and the legal basis for that determination. Identify any specific project components that the applicant proposes for partial project funding. Identify any previously incurred costs, as well as other sources of Federal funds committed to the project and any pending Federal requests. If the requested Federal funding under this NOFO or other programs must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. Finally, if Federal funding for the project has previously been sought, and if applicable, explain how the new scope proposed to be funded under this NOFO relates to the previous scope. If applicable, provide the description and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in *2 CFR 200.306*.

Example Project Funding Table:

Task #	Task name/project component	Cost	Percentage of total cost
1.			
2.			
Total Activity Cost.			
Federal Funds Received from Previous Grant.			
Federal Funding Under this NOFO Request.			
Non-Federal Funding/Match.		Cash: In-Kind:	
Portion of Non-Federal Funding from the Private Sector.			
Portion of Total Activity Costs Spent in a Rural Area.			
Pending Federal Funding Requests.			

iv. *Applicant Eligibility:* Explain how the applicant meets the applicant eligibility as outlined in Section C of this notice. The explanation must include citations to the applicable enabling legislation.

v. *Project Eligibility:* Identify which project eligibility category or categories the project is eligible under in Section C(3) of this notice, and explain how the project meets the project eligibility criteria. Describe how the eligible expenses of the project are related to intercity passenger rail service to be operated by Amtrak and provide any supporting documentation.

vi. *Detailed Project Description:* Include a detailed project description that expands upon the brief project summary. This detailed description should provide, at a minimum, background on the challenges the project aims to support; the expected users and beneficiaries of the project, including all railroad operators and states; the specific components and elements of the project; and any other information the applicant deems necessary to justify the proposed project. For all projects, applicants must provide information about proposed performance measures, as discussed in Section F(3)(c) and required in *2 CFR 200.301*.

vii. *Project Location:* If applicable, include geospatial information, such as latitude and longitude, of the project's location that includes the Congressional districts in which the project will take place, if applicable.

viii. *Evaluation and Selection Criteria and DOT Strategic Goals:* Include a thorough discussion of how the proposed project meets all the evaluation criteria and selection criteria and DOT Strategic Goals, as outlined in Section E of this notice. If an application does not sufficiently address the evaluation and selection criteria and DOT Strategic Goals, it is unlikely to be a competitive application.

ix. *Project Implementation and Management:* Describe proposed project implementation and project management arrangements. Include descriptions of the expected arrangements for contracting, contract oversight and control, change-order management, risk management, and conformance to Federal requirements for progress reporting (see *https://www.fra.dot.gov/Page/P0274*). Describe past experience in managing and overseeing similar grant awards.

b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA and the applicant can understand the expected outcomes of the proposed work to be performed and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW, schedule, and budget templates to be considered for

award. The templates are located at *https://www.fra.dot.gov/Page/P0325*.

ii. SF 424—Application for Federal Assistance;

iii. SF 424A—Budget Information for Non-Construction or SF 424C—Budget Information for Construction;

iv. SF 424B—Assurances for Non-Construction or SF 424D—Assurances for Construction;

v. FRA's Additional Assurances and Certifications; and

vi. SF LLL—Disclosure of Lobbying Activities.

vii. A statement that the lead applicant has a system for procuring property and services under a Federal award under this NOFO that supports the provisions in 2 CFR 200 Subpart D—Procurement Standards at 2 CFR 200.317–326 and 2 CFR 1201.317.

viii. A statement indicating whether the applicant or any of its principals:

(A) is presently suspended, debarred, voluntarily excluded, or disqualified;

(B) has been convicted within the preceding three years of any of the offenses listed in 2 CFR 180.800(a); or had a civil judgment rendered against the organization or the individual for one of those offenses within that time period;

(C) is presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with, commission of any of the offenses listed in 2 CFR 180.800(a); or,

(D) has had one or more public transactions (Federal, state, or local) terminated within the preceding three years for cause or default (including material failure to comply).

ix. FRA F 251, Applicant Financial Capability Questionnaire Forms needed for the electronic application process are at *www.Grants.gov*.

3. Unique Entity Identifier, and System for Award Management (SAM)

To apply for funding through *Grants.gov*, applicants must be properly registered in SAM before submitting an application, provide a valid unique entity identifier, and continue to maintain an active SAM registration all as described in detail below. Complete instructions on how to register and submit an application can be found at *www.Grants.gov*. Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension. FRA may not make a grant award to an applicant until the applicant has complied with all applicable SAM requirements. If an applicant has not fully complied with these requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov*, applicants must:

a. Register With the SAM at *www.SAM.gov*

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable. Information about SAM registration procedures is available at *www.sam.gov*.

b. Obtain a Unique Entity Identifier

On April 4, 2022, the federal government discontinued using DUNS numbers. The DUNS Number was replaced by a new, non-proprietary identifier that is provided by the System for Award Management (*SAM.gov*). This new identifier is called the Unique Entity Identifier (UEI), or the Entity ID. To find or request a Unique Entity Identifier, please visit *www.sam.gov*.

c. Create a *Grants.gov* Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on *www.Grants.gov* and create a username and password. Applicants must use the organization's UEI to complete this step. Additional information about the registration process is available at: *https://www.grants.gov/web/grants/applicants/organization-registration.html*.

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from *Grants.gov* and login at *www.Grants.gov* to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html*.

4. Submission Dates and Times

Applicants must submit complete applications to *www.Grants.gov* no later than 5 p.m. ET, July 10, 2023. In order to apply for funding under this announcement, all applicants are expected to be registered as an organization with *Grants.gov*. FRA reviews *www.Grants.gov* information on the dates and times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Applicants are strongly encouraged to apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the *Grants.gov* registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's

computer or information technology environment.

5. Intergovernmental Review

If Intergovernmental Review is required for this program, applicants must contact their State Single Point of Contact to comply with their State's process under Executive Order 12372.

6. Funding Restrictions

FRA is prohibited under *49 U.S.C. 22905*(f) from providing Interstate Rail Compacts grants for commuter rail passenger transportation (as defined in *49 U.S.C. 24102*(3)).

Consistent with *2 CFR 200.458,* as applicable, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under *2 CFR 200.458,* grant recipients must seek written approval from FRA for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without FRA's written approval may be ineligible for reimbursement or matching contribution. Cost sharing or matching may be used only for authorized Federal award purposes.

7. Other Submission Requirements

For any supporting application materials that an applicant cannot submit via *Grants.gov*, such as oversized engineering drawings, an applicant may submit an original and two (2) copies to Mr. Marc Dixon, Office of Rail Program Development, Federal Railroad Administration, 1200 New Jersey Avenue SE, Mail Stop 20, Washington, DC 20590. Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

Applicants should use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html*.

E. Application Review Information

1. Criteria

a. Eligibility, Completeness and Applicant Risk Review

FRA will first screen each application for applicant and project eligibility (eligibility requirements are outlined in Section C of this notice), completeness (application documentation and submission requirements are outlined in Section D of this notice), applicant risk and the minimum match.

FRA will then consider applicant risk, including the applicant's past performance in developing and delivering other Federal grants and previous financial contributions, and if applicable, previous competitive grant technical evaluation ratings that the proposed project received under previous competitive grant programs administered by DOT.

b. Evaluation Criteria

FRA will evaluate all eligible and complete applications using the evaluation criteria outlined in this section to determine project benefits and technical merit.

i. Project Benefits

FRA will evaluate the summary of benefits provided in response to Section D(2)(a)(ii) including—

(A) Effects on system and service performance along an interstate passenger rail route;

(B) Effects on the promotion of intercity passenger rail service;

(C) Efficiencies from improved coordination of interstate passenger rail services with shared freight operations; and

(D) Ability to incorporate community and stakeholder engagement in transportation planning.

ii. Technical Merit

FRA will evaluate application information for the degree to which—

(A) The tasks and subtasks outlined in the SOW are appropriate to achieve the expected outcomes of the proposed project.

(B) Applications indicate ongoing commitment from each member state to achieving the proposed project.

(C) The applicant has, or will have the legal, financial, and technical capacity to carry out the proposed project. The technical qualifications and experience of key personnel proposed to lead and perform the technical efforts, and the qualifications of the primary and supporting organizations to fully and successfully execute the proposed project within the proposed timeframe and budget are demonstrated.

(D) The proposed project is consistent with planning guidance and documents set forth by DOT, including those required by law or State rail plans developed under Title 49, United State Code, chapter 227, as appropriate.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this subsection, the FRA will apply the following selection criteria:

i. The amount of funding received (including funding from a rail carrier (as defined in section 24102)) or other participation by State, local, and regional governments and the private sector;

ii. The applicant's work to foster economic development through rail service, particularly in rural communities;

iii. Whether the applicant seeks to restore service over routes formerly operated by Amtrak, including routes described in section 11304(a) of the Passenger Rail Reform and Investment Act of 2015 (title XI of division A of Pub. L. 114–94);

iv. The applicant's dedication to providing intercity passenger rail service to regions and communities that are underserved or not served by other intercity public transportation;

v. Whether the applicant is enhancing connectivity and geographic coverage of the existing national network of intercity passenger rail service;

vi. Whether the applicant has prepared regional rail or corridor service development plans and corresponding environmental analysis; and

vii. Whether the applicant has engaged with appropriate government entities and transportation providers to identify projects necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity passenger rail service and intercity bus service or commercial air service.

d. DOT Strategic Goals

After the eligibility and completeness review and the evaluation and selection criteria outlined in this section, FRA

will then consider the extent to which the projects address the following DOT Strategic Goals:

i. Safety

FRA will assess the project's ability to foster a safe transportation system for the movement of goods and people, consistent with the Department's strategic goal to reduce transportation-related fatalities and serious injuries across the transportation system. Such sounds considerations will include, but are not limited to, the extent to which the project improves safety at highway-rail grade crossings, reduces incidences of rail-related trespassing, and upgrades infrastructure to achieve a higher level of safety.

ii. Economic Strength and Global Competitiveness

FRA will assess the project's ability to contribute to economic progress stemming from infrastructure investment and associated job creation in the industry. Such considerations will include, but are not limited to, the extent to which the project results in high-quality job creation by supporting good-paying jobs with a free and fair choice to join a union, and in on-going operations and maintenance, and incorporates strong labor standards, such as through the use of project labor agreements or union neutrality agreements; includes comprehensive planning and policies to promote hiring of underrepresented populations including local and economic hiring preferences and investments in high-quality workforce development programs with supportive services, including labor-management programs, to help train, place, and retain people in good-paying jobs or registered apprenticeship, and invests in vital infrastructure assets.

iii. Equity

FRA will assess the project's ability to address equity and barriers to opportunity, to the extent possible within the program and consistent with law. Such considerations will include, but are not limited to, the applicant's plan for using small businesses to complete its project, the extent to which the project improves or expands transportation options, the extent to which the project improve or expands access to jobs and services and mitigates the safety risks and detrimental quality of life effects that rail lines can have on communities. This will also include community engagement efforts already taken or planned, the extent to which engagement efforts are designed to reach impacted communities, whether engagement is accessible for persons with disabilities or limited English proficient persons within the impacted communities, and how community feedback is taken into account in decision-making.

In determining the allocation of program funds, FRA may also consider geographic diversity and the applicant's receipt of other competitive awards.

2. Review and Selection Process

FRA will conduct a four-part application review process, as follows:

a. Screen applications for applicant and project eligibility, completeness, the minimum match and applicant risk including past performance in developing and delivering similar projects;

b. Apply evaluation criteria to remaining applications (completed by technical panels);

c. Apply selection criteria and DOT Strategic Goals and recommend initial selection of projects for the FRA Administrator's review (completed by a Senior Review Team, which includes senior leadership from the Office of the Secretary and FRA); and

d. Select recommended awards for the Secretary's or his designee review and approval (completed by the FRA Administrator).

3. Reporting Matters Related to Integrity and Performance

a. Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of $250,000 (see *2 CFR 200.88* Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). See *41 U.S.C. 2313.*

b. An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

c. FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in *2 CFR 200.205.*

F. Federal Award Administration Information

1. Federal Award Notices

FRA will announce applications selected for funding in a press release and on FRA's website after the application review period. This announcement is FRA's notification to successful and unsuccessful applicants alike. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grant recipient and the FRA, including an approved scope, schedule, and budget, before obligating the grant. See an example of standard terms and conditions for FRA grant awards at *https://railroads.dot.gov/elibrary/award-administration-and-grant-conditions.* This template is subject to revision.

2. Administrative and National Policy Requirements

Performance under this Program will be governed by and in compliance with the following requirements as applicable to the type of organization of the recipient and any applicable sub-recipients.

It is the policy of DOT to reflect Administration priorities and incorporate criteria for selection considerations related to racial equity including environmental justice, Title VI and other federal Civil Rights laws, and barriers to opportunity, labor, and workforce in its grant programs, to the extent possible and consistent with law.

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR part 200, as adopted by DOT at 2 CFR part 1201.

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and

applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FRA determines that a recipient has failed to comply with applicable Federal requirements, FRA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds

3. Reporting

a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically. Pursuant to 2 CFR 170.210, non-Federal entities applying under this NOFO must have the necessary processes and systems in place to comply with the reporting requirements should they receive Federal funding.

b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including *2 CFR 180.335* and *2 CFR 180.350.*

If the Federal share of any Federal award under this NOFO may include more than $500,000 over the period of performance, applicants are informed of the post award reporting requirements reflected in *2 CFR part 200, appendix XII*—Award Term and Condition for Recipient Integrity and Performance Matters.

c. Performance and Program Evaluation

Program Evaluation As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT, or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The Department may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and sub-recipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure the effectiveness of their projects and strategies. Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Public Law 115–435 (2019) urges Federal awarding agencies and Federal assistance recipients and sub-recipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means ''an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency'' (codified at 5 U.S.C. 311). For grant recipients, evaluation expenses are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such expenses may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation (2 CFR 200).

d. Performance Reporting

Each applicant selected for funding must report on the project's performance using measures mutually agreed upon by FRA and the grant recipient to assess progress in achieving the DOT strategic goals and objectives.

Examples of some rail performance measures for Program funding are listed in the table below. The applicable measure(s) will depend upon the type of project.

Programmatic measures	Unit measured	Temporal	Description
Administrative Support Provided.	Additional staff capacity	Annual	The hours of staff, administrative professional and/or technical personnel, in absence of the programmatic funding, that have been added to support the activities or work products that facilitate Interstate Rail Compacts carrying out their duties effectively and timely, including information technology, accounting, human resources, and procurement.
Creation of new or updates to existing regional rail planning studies.	Number of reports	Annual	The development of a high-level planning study that considers new transportation services or enhancing existing transportation systems by examining broad needs, challenges, and opportunities, including studying the impacts of freight rail operations on system performance and ridership.
Promotion of Intercity Passenger Rail Operations.	Number of marketing and advertising campaigns or outreach efforts.	Annual	Promotional activities include website development, social media management, print materials, direct advertising, collecting customer feedback, and stakeholder outreach.

Programmatic measures	Unit measured	Temporal	Description
Preparation of applications for Federal grant program.	Number of grant programs applied to or time/resources spent on applying.	Annual	The development and support needed, including, technical staff or contractor support to prepare applications and documentation associated with preparing an application for financial assistance. These activities include preparing operating plans, funding plans, benefit-cost analysis, and any other documentation that is required to be provided as part of an application for a federal grant.

G. Federal Awarding Agency Contacts

For further information regarding this notice and the grants program, please contact the FRA NOFO Support program staff via email at *FRA-NOFO-Support@dot.gov.* If additional assistance is needed, you may contact Mr. Marc Dixon, Office of Rail Program Development, Federal Railroad Administration; email: *marc.dixon@dot.gov* phone: 202–493–0614.

H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions.

The DOT regulations implementing the Freedom of Information Act (FOIA) are found at 49 CFR part 7 subpart C—Availability of Reasonably Described Records under the Freedom of Information Act which sets forth rules for FRA to make requested materials, information and, records publicly available under FOIA. Unless prohibited by law and to the extent permitted under the FOIA, contents of application and proposals submitted by successful applicants may be released in response to FOIA requests.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–09863 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0087]

Coastwise-Qualified Launch Barges: 46 CFR 389.3(a) Notifications

AGENCY: Maritime Administration (MARAD), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: On April 27, 2023, MARAD published this notice in the **Federal Register**. It is being republished to ensure comments can be received and corrects the contact information and extends the comment period. To maximize the use of coastwise-qualified vessels, MARAD requests owners and operators of coastwise-qualified launch barges or other interested parties to notify the Agency of their interest in, and provide certain information relating to, the transportation, installation, or launching of platform jackets. MARAD takes this action as a resource to companies contemplating these operations on the outer continental shelf. The notifications should include information set forth in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 8, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0087 by any of the following methods:

- *Website/Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search ''MARAD–2023–0087'' and follow the instructions for submitting comments on the electronic docket site.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: All submissions must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* and search using ''MARAD–2023–0087.''

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, Office of Cargo and Commercial Sealift (MAR–620), 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 731–6220. Email: *Michael.Hokana@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 55108, the Secretary of Transportation has the authority to adopt procedures that timely provide information that would maximize the use of coastwise-qualified vessels for the transportation of platform jackets between U.S. coastwise points and the outer continental shelf. This authority has been delegated to MARAD. The regulations promulgated under the authority of 46 U.S.C. 55108 and 46 CFR 389.3(a), require that MARAD publish a notice in the **Federal Register** requesting notification from owners, operators, or potential operators of coastwise-qualified launch barges, or other interested parties, of: (1) their interest in participating in the transportation and, if needed, the launching or installation of offshore platform jackets; (2) the contact information for their company; and (3) the specifications of any currently owned or operated coastwise-qualified launch barges or plans to construct such a vessel. The notification should indicate that the vessel's certificate of documentation has a coastwise endorsement. The information provided in the notifications will be published at *http://MARAD.dot.gov.* 46 CFR 389.3(e).

Privacy Act

In accordance with 5 U.S.C. 553(c), MARAD solicits comments from owners and operators of coastwise-qualified launch barges to compile a list of vessels that could potentially be available to transport, and if necessary, launch or

install platform jackets. All timely comments will be considered; however, to facilitate comment tracking, commenters should provide their name or the name of their organization. If comments contain proprietary or confidential information, commenters may contact the agency for alternate submission instructions. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 46 U.S.C. 55108, 49 CFR 1.93(a), 46 CFR 389.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–09801 Filed 5–8–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act, 5 U.S.C. ch. 10, that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on May 16–18, 2023. The meeting sessions will take place at VA Caribbean Healthcare System, 10 Calle Casia (Administration Building 40, Room 2M230), San Juan, Puerto Rico 00921. The meeting sessions will begin and end as follows:

Dates	Times	Open session
May 16, 2023	9:00 a.m. to 5:00 p.m. Atlantic Standard Time (AST)	No.
May 17, 2023	9:00 a.m. to 5:00 p.m. AST	No.
May 18, 2023	9:00 a.m. to 5:00 p.m. AST	Yes.

The meeting sessions are closed to the public when the Committee is conducting tours of VA other Veteran service facilities and administrative workgroup sessions. Tours of VA facilities are closed, to protect Veterans' privacy and personal information in accordance with 5 U.S.C. 552b (c)(6).

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On May 16 and May 17, 2023, the Committee will conduct tours of VA and other Veteran service facilities and administrative workgroup sessions. Tours of VA and Veteran service facilities are closed, to protect Veterans' privacy and personal information in accordance with 5 U.S.C. 552b(c)(6).

On May 18, the meeting will be a hybrid, held in-person and the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be emailed to Donald Myers, Director, Facilities Standards Service, Office of Construction & Facilities Management (003C2B), Department of Veterans Affairs, at *donald.myers@va.gov.* In the communication, writers must identify themselves and state the organization, association, or person(s) they represent. For any members of the public that wish to attend virtually, they may use the Microsoft Teams link or call in with the phone number and Phone Conference ID below: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDM0NWNjMjQtMDIzNC00YmVlLWJhYzYtZjM1MzNkZjRmNjU4%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22d2eb6490-e84d-4737-b9ce-b5664e018fd6%22%7d,* Meeting ID: 283 180 861 958, Passcode: q3gSdL, or to join by phone (audio only): +1 872–701–0185, Phone Conference ID: 913 918 924#.

Those seeking additional information or wishing to attend should contact Mr. Myers at the email address noted above or by phone at 202–632–5388.

Dated: May 4, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–09832 Filed 5–8–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA), National Cemetery Administration (NCA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the VA is modifying the system of records in its inventory titled, ''Veterans (Deceased) Headstone or Marker Records—VA'' (48VA40B). The records in this system relate to deceased veterans and their eligible family members and consist primarily of Military Service Data, place of burial, and data on headstone or marker.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register.** If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005X6F),

Washington, DC 20420. Comments should indicate that they are submitted in response to ''Veterans (Deceased) Headstone or Marker Records—VA'' (48VA40B). Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: Cindy Merritt, National Cemetery Administration (NCA) Privacy Officer (43E), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Cindy.Merritt@va.gov,* telephone (321) 200–7477 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA is amending the system of records by revising the Purpose, Routine Uses of Records Maintained in the System, Policies and Practices for Retention and Disposal of Records, Record Access Procedures, Contesting Record Procedures, and Notification Procedures. VA is republishing the system notice in its entirety.

Routine Use of Records Maintained in the System is being amended to reflect the Departmental requirement of seven additional routine uses that further clarify appropriate and necessary disclosures: Funeral Homes, for Arrangements; Federal Agencies, for Research; Federal Agencies, for Computer Matches; Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings; Former Employee or Contractor, Representative, for Equal Employment Opportunity Commission (EEOC); Former Employee or Contractor, Representative, for Merit Systems Protection Board (MSPB), Office of Special Counsel (OSC); Governmental Agencies, Health Organizations, for Claimants' Benefits.

The Purpose is being amended and will now reflect the following language: ''This system is used to facilitate the administration of statutory benefit programs that relate to deceased veterans and family members who are eligible for a variety of Federal benefits administered by VA at VA facilities; at national, state, tribal, and private cemeteries located throughout the country; as well as worldwide. The records consist primarily of Military Service Data, place of burial, and data on headstone or marker.''

The Policies and Practices for Retention and Disposal of Records section is being amended to include a reference to the applicable records control schedule.

The Record Access Procedures and Contesting Record Procedures sections are being amended to refer the reader to the system manager instead of a specific address.

Notification Procedures is being amended to remove the prior language and include ''Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure above.''

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on March 29, 2023 for publication.

Dated: May 4, 2023.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Veterans (Deceased) Headstone or Marker.

Records-VA (48VA40B).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the National Cemetery Administration (41B), VA Central Office, 810 Vermont Avenue NW, Washington, DC 20420.

SYSTEM MANAGER(S):

Artis Parker, Executive Director of Field Programs (41B), National Cemetery Scheduling Office, 4850 Lemay Ferry Road, Suite 205, St. Louis, MO 63129, *Artis.Parker@va.gov,* telephone (314) 416–6304.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 2404.

PURPOSE(S) OF THE SYSTEM:

This system is used to facilitate the administration of statutory benefit programs that relate to deceased veterans and family members who are eligible for a variety of Federal benefits administered by VA at VA facilities; at national, state, tribal, and private cemeteries located throughout the country; as well as worldwide. The records consist primarily of Military Service Data, place of burial, and data on headstone or marker.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Deceased Veterans and eligible family members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system are the primary records and may contain the following types of information:

1. Military Service Data.
2. Applicant's name and address.
3. Place of burial.
4. Data on headstone or marker.
5. Consignee's name, address, and phone number.

RECORD SOURCE CATEGORIES:

Record sources include family members of the deceased, official military records and VA claims records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. *Congress:* To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. *Data Breach Response and Remediation, for VA:* To appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. *Data Breach Response and Remediation, for Another Federal Agency:* To another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. *Law Enforcement:* To a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. *Department of Justice (DoJ) for Litigation or Administrative Proceeding:* To the DoJ, or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. *Contractors:* To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. *Office of Personnel Management (OPM):* To the OPM in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

8. *EEOC:* To the EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

9. *Federal Labor Relations Authority (FLRA):* To the FLRA in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel, and the investigation of representation petitions and the conduct or supervision of representation elections.

10. *MSPB:* To the MSPB in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. *National Archives and Records Administration (NARA):* To the NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. *Funeral Homes, for Arrangements:* To funeral directors or representatives of funeral homes in order for them to make necessary arrangements prior to and in anticipation of a veteran's impending death.

13. *Federal Agencies, for Research:* To a Federal agency for the purpose of conducting research and data analysis to perform a statutory purpose of that Federal agency upon the written request of that agency.

14. *Federal Agencies, for Computer Matches:* To other federal agencies for the purpose of conducting computer matches to obtain information to determine or verify eligibility of veterans receiving VA benefits or medical care under title 38.

15. *Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings:* To another federal agency, court, or party in litigation before a court or in an administrative proceeding conducted by a Federal agency, when the government is a party to the judicial or administrative proceeding.

16. *Former Employee or Contractor, Representative, for EEOC:* To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with investigations by the EEOC pertaining to alleged or possible discrimination practices, examinations of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

17. *Former Employee or Contractor, Representative, for MSPB, OSC:* To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in proceedings before the MSPB or OSC in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as otherwise authorized by law.

18. *Governmental Agencies, Health Organizations, for Claimants' Benefits:* VA To Federal, state, and local government agencies and national health organizations as reasonably necessary to assist in the development of programs that will be beneficial to claimants, to protect their rights under law, and assure that they are receiving all benefits to which they are entitled.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on paper and are stored at VA Central Office.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrievable by name of VA beneficiary or eligible family member.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained permanently in accordance with the schedule approved by the Archivist of the United States, NCA Records Control Schedule, NC1–15–85–9 item 21g(1)(a).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

NCA will maintain the data in compliance with applicable VA security policy Directives that specify the standards that will be applied to protect sensitive personal information. Further, only authorized individuals may have access to the data and only when needed to perform their duties. They are required to take annual VA mandatory data privacy and security training.

RECORD ACCESS PROCEDURES:

Individuals seeking information on the existence and content of records in this system pertaining to them should contact the system manager in writing as indicated above. A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact the system manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

75 FR 65063 (October 21, 2010).

[FR Doc. 2023–09838 Filed 5–8–23; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Part 60

Review of Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2021–0664; FRL–8511–02–OAR]

RIN 2060–AV30

Review of Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the new source performance standards for Automobile and Light Duty Truck Surface Coating Operations pursuant to the review required by the Clean Air Act. The EPA determined that revisions to the NSPS were needed to reflect the degree of emission limitation achievable through the application of the best system of emission reduction (BSER). The EPA is therefore finalizing, as proposed, in a new NSPS subpart MMa, revised volatile organic compound (VOC) emission limits for prime coat, guide coat, and topcoat operations for affected facilities that commence construction, modification, or reconstruction after May 18, 2022. In addition, in the new NSPS subpart, the EPA is finalizing the proposed amendments: the addition of work practices to minimize VOC emissions; revision of the plastic parts provision; updates to the capture and control devices and the associated testing and monitoring requirements; revision of the transfer efficiency provisions; new test methods and alternative test methods; revision of the recordkeeping and reporting requirements, including the addition of electronic reporting; removing exemptions for periods of startup, shutdown, and malfunction; and other amendments to harmonize the new NSPS subpart and Automobile and Light Duty Truck Surface Coating National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements. The EPA is also finalizing the proposed electronic reporting requirements in the NSPS subpart MM, applicable to sources that commence construction, reconstruction, or modification after October 5, 1979, and on or before May 18, 2022.

DATES: This final rule is effective on May 9, 2023. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 9, 2023.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0664. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Ms. Paula Deselich Hirtz, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2618; and email address: *hirtz.paula@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this preamble the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ALDT Automobile and Light Duty Truck
ANSI American National Standards Institute
ASTM American Society for Testing and Materials
ASME American Society of Mechanical Engineers
BACT best available control technology
BID background information document
BSER best system of emission reduction
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CEPCI Chemical Engineering Plant Cost Index
CPMS Continuous Parametric Monitoring System
EDP electrodeposition
EIA economic impact analysis
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FID flame ionization detector
FR Federal Register
GC gas chromatography
GHG greenhouse gas
IBR incorporation by reference
ICR information collection request
LAER lowest available control technology
kg/lacs kilograms per liter of applied coating solids
km kilometer
kwh kilowatt hours
$mtCO_2e$ metric tons of carbon dioxide equivalents
NAICS North American Industry Classification System
NESHAP National Emission Standard for Hazardous Air Pollutant
NMOC nonmethane organic compound(s)
Non-EDP non-electrodeposition
NSPS New Source Performance Standards
NSR New Source Review
NTTAA National Technology Transfer and Advancement
OMB Office of Management and Budget
lb/gal acs pounds per gallon of applied coating solids
PM particulate matter
PRA Paperwork Reduction Act
PSD Prevention of Significant Deterioration
RACT reasonably available control technology
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTO regenerative thermal oxidizer
SSM startup, shutdown, and malfunction
scf standard cubic feet
TE transfer efficiency
THC total hydrocarbon
tpy tons per year
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code
VCS Voluntary Consensus Standards
VOC volatile organic compound(s)

Organization of this document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

The source category that is the subject of this final action is automobile and light duty truck (ALDT) surface coating operations regulated under CAA section 111 NSPS. The 2022 North American Industry Classification System (NAICS) codes for the ALDT manufacturing industry are 336111 (automotive manufacturing), 336112 (light truck and utility vehicle manufacturing), and 336211 (manufacturing of truck and bus bodies and cabs and automobile bodies). The NAICS codes serve as a guide for readers outlining the types of entities that this final action is likely to affect. We estimate that 60 facilities engaged in ALDT manufacturing will be affected by this final action. The NSPS requirements finalized in this action and codified in 40 CFR part 60, subpart MMa are directly applicable to affected facilities that begin construction, reconstruction, or modification after May 18, 2022, which is the date of publication of the proposed NSPS subpart MMa in the **Federal Register**. The requirements in 40 CFR part 60, subpart MM are applicable to affected facilities that begin construction, reconstruction, or modification after October 5, 1979, but that begin construction, reconstruction, or modification no later than May 18, 2022. Federal, state, local, and tribal government entities will not be affected by this final action. If you have any questions regarding the applicability of this action to a particular entity, you should carefully examine the applicability criteria found in 40 CFR part 60, subparts MM and MMa, and consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, your state or local air pollution control agency with delegated authority for the NSPS, or your EPA Regional Office.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action is available on the internet at *https://www.epa.gov/stationary-sources-air-pollution/automobile-and-light-duty-truck-surface-coating-operations-new.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule and key technical documents at this same website.

C. Judicial Review and Administrative Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by July 10, 2023. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this final action?

The EPA's authority for this final rule is CAA section 111, which governs the establishment of standards of performance for stationary sources. Section 111(b)(1)(A) of the CAA requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgment cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category pursuant to CAA section 111(b)(1)(B). These standards are referred to as new source performance standards or NSPS. The EPA has the authority to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, types, and sizes within categories in establishing the standards.

CAA section 111(b)(1)(B) requires the EPA to ''at least every 8 years review and, if appropriate, revise'' new source performance standards. However, the Administrator need not review any such standard if the ''Administrator determines that such review is not appropriate in light of readily available information on the efficacy'' of the standard. When conducting a review of an existing performance standard, the EPA has the discretion and authority to add emission limits for pollutants or emission sources not currently regulated for that source category.

In setting or revising a performance standard, CAA section 111(a)(1) provides that performance standards are to reflect ''the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' The term ''standard of performance'' in CAA section 111(a)(1) makes clear that the EPA is to determine both the best system of emission reduction (BSER) for the regulated sources in the source category and the degree of emission limitation achievable through application of the BSER. The EPA must then, under CAA section

111(b)(1)(B), promulgate standards of performance for new sources that reflect that level of stringency.

CAA section 111(h)(1) authorizes the Administrator to promulgate ''a design, equipment, work practice, or operational standard, or combination thereof'' if in his or her judgment, ''it is not feasible to prescribe or enforce a standard of performance.'' CAA section 111(h)(2) provides the circumstances under which prescribing or enforcing a standard of performance is ''not feasible,'' such as, when the pollutant cannot be emitted through a conveyance designed to emit or capture the pollutant, or when there is no practicable measurement methodology for the particular class of sources. Except as authorized under CAA section 111(h), CAA section 111(b)(5) precludes the EPA from prescribing a particular technological system that must be used to comply with a standard of performance. Rather, sources can select any measure or combination of measures that will achieve the standard.

Pursuant to the definition of new source in CAA section 111(a)(2), standards of performance apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Under CAA section 111(a)(4), ''modification'' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted. Changes to an existing facility that do not result in an increase in emissions are not considered modifications. Under the provisions in 40 CFR 60.15, reconstruction means the replacement of components of an existing facility such that: (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and (2) it is technologically and economically feasible to meet the applicable standards. Pursuant to CAA section 111(b)(1)(B), the standards of performance or revisions thereof shall become effective upon promulgation.

B. How does the EPA perform the NSPS review?

As noted in section II.A of this preamble, CAA section 111 requires the EPA to, at least every 8 years, review and, if appropriate, revise the standards of performance applicable to new, modified, and reconstructed sources. If the EPA revises the standards of performance, they must reflect the degree of emission limitation achievable through the application of the BSER considering the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements. CAA section 111(a)(1).

In reviewing an NSPS to determine whether it is ''appropriate'' to review and revise the standards of performance, the EPA evaluates the statutory factors, which may include consideration of the following information:

- Expected growth for the source category, including how many new facilities, reconstructions, and modifications may trigger NSPS in the future.
- Pollution control measures, including advances in control technologies, process operations, design or efficiency improvements, or other systems of emission reduction, that are ''adequately demonstrated'' in the regulated industry.
- Available information from the implementation and enforcement of current requirements indicating that emission limitations and percent reductions beyond those required by the current standards are achieved in practice.
- Costs (including capital and annual costs) associated with implementation of the available pollution control measures.
- The amount of emission reductions achievable through application of such pollution control measures.
- Any non-air quality health and environmental impact and energy requirements associated with those control measures.

In evaluating whether the cost of a particular system of emission reduction is reasonable, the EPA considers various costs associated with the particular air pollution control measure or a level of control, including capital costs and operating costs, and the emission reductions that the control measure or particular level of control can achieve. The Agency considers these costs in the context of the industry's overall capital expenditures and revenues. The Agency also considers cost-effectiveness analysis as a useful metric, and a means of evaluating whether a given control achieves emission reduction at a reasonable cost. A cost-effectiveness analysis allows comparisons of relative costs and outcomes (effects) of 2 or more options. In general, cost effectiveness is a measure of the outcomes produced by resources spent. In the context of air pollution control options, cost effectiveness typically refers to the annualized cost of implementing an air pollution control option divided by the amount of pollutant reductions realized annually.

After the EPA evaluates the statutory factors, the EPA compares the various systems of emission reductions and determines which system is ''best,'' and therefore represents the BSER. The EPA then establishes a standard of performance that reflects the degree of emission limitation achievable through the implementation of the BSER. In doing this analysis, the EPA can determine whether subcategorization is appropriate based on classes, types, and sizes of sources, and may identify a different BSER and establish different performance standards for each subcategory. The result of the analysis and BSER determination leads to standards of performance that apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Because the new source performance standards reflect the best system of emission reduction under conditions of proper operation and maintenance, in doing its review, the EPA also evaluates and determines the proper testing, monitoring, recordkeeping and reporting requirements needed to ensure compliance with the emission standards.

C. What is the ALDT surface coating source category regulated in this final action?

Pursuant to the CAA section 111 authority described earlier in this preamble, the EPA listed the ALDT surface coating source category under CAA section 111(b)(1). 44 FR 49222, 49226 (August 21, 1979). The EPA first promulgated NSPS for ALDT surface coating operations on December 24, 1980 (45 FR 85415; December 24, 1980). The 1980 ALDT NSPS are codified in 40 CFR part 60, subpart MM and are applicable to sources that commence construction, modification, or reconstruction after October 5, 1979 (ALDT NSPS MM). The ALDT NSPS MM regulate VOC emissions from surface coating operations located at automobile and light duty truck assembly plants. Subpart MM was amended in a series of actions and the last amendment was promulgated in 1994 (59 FR 51383; October 11, 1994).

The ALDT surface coating source category consists of each prime coat operation, each guide coat operation, and each topcoat operation in an automobile or light duty truck assembly plant. Subpart MM requires a monthly compliance demonstration with the VOC emission limit established for each surface coating operation:

- For prime coat operations:
  - For electrodeposition (EDP) prime coat: 0.17 to 0.34 kilograms VOC/liter applied coating solids (kg VOC/l acs) (1.42 to 2.84 lbs VOC/gallon (gal) acs) depending on the solids turnover ratio (R_T); for R_T greater than 0.16, the limit is 0.17 kg VOC/l acs (1.42 lb VOC/gal acs); for turnover ratios less than 0.04, there is no emission limit.
  - For non-EDP (spray applied) prime coat: 0.17 kg VOC/l acs (1.42 lb VOC/gal acs);
- For guide coat operations: 1.40 kg VOC/l acs (11.7 lb VOC/gal acs); and
- For topcoat operations: 1.47 kg VOC/l acs (12.3 lb VOC/gal acs).

Subpart MM provides default transfer efficiencies (TE) for various surface coating application methods for the monthly compliance calculation. The default TE values in subpart MM also account for the recovery of purge solvent. The monthly compliance calculation also includes control device VOC destruction efficiency as determined by the initial or the most recent control device performance test. The control devices identified in the ALDT NSPS MM include thermal and catalytic oxidizers. In addition, subpart MM requires continuous monitoring of thermal and catalytic oxidizer operating temperatures. Quarterly or semiannual reporting is required to report emission limit exceedances and negative reports are required for no exceedances. Surface coating operations for plastic body components or all-plastic automobile or light-duty truck bodies on separate coating lines are exempted from the ALDT NSPS MM. However, the attachment of plastic body parts to a metal body before the body is coated does not cause the metal body coating operation to be exempted. Additional detail on the ALDT surface coating source category and ALDT NSPS MM requirements are provided in the proposal (87 FR 30141; May 18, 2022).

The EPA estimates that the ALDT NSPS MM currently affects surface coating operations at 44 ALDT assembly plants operating in the U.S. ALDT NSPS MM sources and will be subject to the electronic reporting amendments being finalized by this action. The EPA also expects that an additional 16 ALDT assembly plants will commence construction, reconstruction, or modification of the affected surface coating operations over the next 8 years (after May 18, 2022). These new sources will be subject to the new ALDT NSPS MMa being finalized in this action.

The EPA proposed the current review of the ALDT NSPS MM on May 18, 2022 (87 FR 30141; May 18, 2022). We received 5 comment letters from the affected industry, the industry association, environmental groups, and a state environmental agency during the comment period. In addition, we met with the affected industry and the industry association on December 8 and 13, 2022. A summary of the more significant comments we timely received regarding the proposed rule and our responses are provided in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled, *Summary of Public Comments and Responses on Proposed Rule: New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations (40 CFR part 60, subpart MM) Best System of Emission Reduction Review, Final Amendments,* Docket ID No. EPA–HQ–OAR–2021–0664. Additional information provided by the affected industry and the industry association in meetings held on December 8 and 13, 2022, to support their written comments and meeting minutes are provided in separate memoranda available in the docket. A ''track changes'' version of the regulatory language that incorporates the changes in this final action for ALDT NSPS MM is also available in the docket. In this action, the EPA is finalizing decisions and revisions pursuant CAA section 111(b)(1)(B) review for the ALDT surface coating source category after our consideration of all the comments received.

D. What changes did we propose for the ALDT surface coating NSPS?

The EPA proposed the results of the CAA 111(b)(1)(B) review of the ALDT NSPS, 40 CFR part 60, subpart MM on May 18, 2022 (87 FR 30141; May 18, 2022). The EPA proposed to codify the revisions to the ALDT NSPS MM in a new NSPS subpart, MMa. In the new subpart MMa, the EPA proposed requirements that apply to sources that commence construction, reconstruction, or modification after May 18, 2022. The revisions proposed to be codified in subpart MMa were: revised VOC emission limits for the prime coat, guide coat, and topcoat operations; the addition of work practices to minimize VOC emissions; revision of the plastic parts provision; updates to the capture and control devices and the associated testing and monitoring requirements; revision of the transfer efficiency provisions; revision of the recordkeeping and reporting requirements; the addition of electronic reporting; clarification of the requirements for periods of startup, shutdown, and malfunction (SSM); new test methods and incorporation by reference (IBR) of alternative methods; minor corrections and clarifications; and other amendments to harmonize the new NSPS subpart requirements with the Automobile and Light Duty Truck Surface Coating National Emission Standards for Hazardous Air Pollutants, 40 CFR part 63, subpart IIII (ALDT NESHAP) requirements.

The EPA also proposed electronic reporting requirements in subpart MM, which applies to affected sources that commenced construction, reconstruction, or modification after October 5, 1979, and on or before May 18, 2022.

III. What actions are we finalizing and what is our rationale for such decisions?

The EPA is finalizing revisions to the NSPS for the ALDT surface coating source category pursuant to CAA section 111(b)(1)(B) review. The EPA is promulgating the NSPS revisions in a new subpart, 40 CFR part 60, subpart MMa. Subpart MMa is applicable to affected sources constructed, modified, or reconstructed after May 18, 2022. This action also finalizes revisions to ALDT NSPS subpart MM. Subpart MM is applicable to affected sources that are constructed, modified, or reconstructed after October 5, 1979, but on or before May 18, 2022.

The final requirements in subpart MMa include the following revisions that the EPA proposed: VOC emission limits for the prime coat, guide coat, and topcoat operations; work practices to minimize VOC emissions; plastic parts provision; capture and control devices and the associated testing and monitoring requirements; transfer efficiency provisions; recordkeeping and reporting requirements; electronic reporting; requirements for periods of SSM; test methods and IBR of alternative methods; and other requirements to harmonize the new NSPS subpart MMa requirements with the Automobile and Light Duty Truck Surface Coating National Emission Standards for Hazardous Air Pollutants, 63 subpart IIII (ALDT NESHAP) requirements.

The final requirements also include the addition of electronic reporting requirements in subpart MM, which applies to affected sources that commenced construction, reconstruction, or modification after October 5, 1979, but on or before May 18, 2022.

A. Emission Limits

The EPA is finalizing VOC emission limits in new subpart MMa for each

prime coat operation, each guide coat operation, and each topcoat operation in an automobile or light duty truck assembly plant, calculated monthly. For the prime coat operation, we are finalizing the proposed numeric limit with the addition of a solids turnover ratio (R_T) in response to comments. For the guide coat and topcoat operations we are finalizing the proposed numeric limits.

- For prime coat operations:
  - Electrodeposition (EDP) prime coat, 0.027 to 0.055 kilograms VOC/liter applied coating solids (kg VOC/l acs) (0.23 to 0.46 lbs VOC/gal acs) depending on the solids turnover ratio (R_T) when R_T is between 0.04 and 0.16; For R_T greater than 0.16, the limit is 0.027 kg VOC/l acs (0.23 lb VOC/gal acs); for turnover ratios less than 0.04, there is no emission limit.
  - Non-EDP (spray applied) prime coat, 0.028 kg VOC/l acs (0.23 lb VOC/gal acs).
- For guide coat operations, 0.35 kg VOC/l acs (2.92 lb VOC/gal acs); and
- For topcoat operations, 0.42 kg VOC/l acs (3.53 lb VOC/gal acs).

For prime coat operations, the final VOC emission limit reflects the EPA's determination that use of waterborne prime coat applied by EDP with control of the curing oven emissions with thermal oxidation that is capable of achieving 95 percent destruction or removal efficiency (DRE) represents the updated BSER for this surface coating operation. The final emission limit for EDP prime coat operations in subpart MMa includes the R_T, which is a factor in determining compliance with the VOC emission limit for the prime coat in the current subpart MM. EPA determined the final emission limit for the prime coat operation was cost effective.

For guide coat operations, the final VOC limit reflects the EPA's determination that use of waterborne or solvent borne guide coats applied by spray application with control of the waterborne flash off area or control of the solvent borne booth and oven with either a carbon adsorber concentrator and an RTO or just an RTO, with the RTO achieving 95 percent DRE of the captured emissions represents the updated BSER for this surface coating operation. The final emission limit for guide coat operations in subpart MMa is based on facilities that are subject to and achieve the emission limit of 0.35 kg VOC/l acs (2.92 lb VOC/gal acs) by using either: (1) waterborne guide coat with control of the flash off area with a carbon adsorber concentrator and an RTO but no control of the booth; or (2) solvent borne guide coat and control of the booth and oven with either a carbon adsorber concentrator and an RTO or just an RTO, with the RTO achieving 95 percent DRE of the captured emissions. The EPA determined the final emission limit for the guide coat operation was cost effective.

For topcoat operations, the final VOC limit reflects the EPA's determination that the use of waterborne basecoats and solvent borne clearcoats applied by spray application with control of the waterborne basecoat booth and/or the flash off area and control of the solvent borne clearcoat booth, flash off area, and topcoat oven with an RTO or a combination of a concentrator and an RTO, with the RTO achieving 95 percent DRE of the captured emissions represents the updated BSER for this surface coating operation. The final emission limit for topcoat operations in subpart MMa is based on facilities that are subject to and achieve the emission limit of 0.42 kg VOC/l acs (3.53 lb VOC/gal acs) by using: (1) waterborne basecoat with control of the booth and/or the flash off area with a combination of a concentrator and an RTO; and (2) solvent borne clearcoat with control of the automated sections of the clearcoat booth, the clearcoat flash off area and the topcoat oven with an RTO or a combination of a concentrator and an RTO, with the RTO achieving 95 percent DRE of the captured emissions. The EPA determined the final emission limit for the topcoat operation was cost effective.

The EPA identified and considered more stringent emission limits in its review that were not selected for the proposed and final actions. The more stringent emission limits were not selected because the EPA determined they were based on coating technology that was not adequately demonstrated by the industry (*i.e.,* powder coating for the guide coat operation) or because the EPA determined they were not cost effective (*i.e.,* lower limits for the EDP prime coat and topcoat operations).

Pursuant to CAA section 111(b)(1)(B), the EPA conducted a BSER review of the requirements in 40 CFR part 60, subpart MM and presented the results of this review, along with our proposed determinations, in section IV.A of the proposed rule preamble (87 FR 30147; May 18, 2022). A detailed discussion of our review and proposed determinations are included in the memorandum titled, *Final Rule Best System of Emission Reduction Review for Surface Coating Operations in the Automobile and Light-Duty Truck Source Category (40 CFR part 60, subpart MM),* available in the docket for this action. Based on our review, we proposed revised VOC emission limits for each prime coat operation, each guide coat operation, and each topcoat operation in an automobile or light duty truck assembly plant. The final VOC emission limits are based on the proposed VOC emission limits and the revisions made in response to comments we received, as described here.

1. Prime Coat Operation

a. Proposed Emission Limit

For the prime coat operation, at proposal, the EPA evaluated 2 regulatory options based on facilities using an EDP prime coat dip tank system. Both options were more stringent than the ALDT NSPS MM limit for prime coat operations. The options were based on 19 facilities with 28 EDP prime coat operations that are currently subject to more stringent prime coat limits than the ALDT NSPS MM prime coat limit.

The first option was a numerical VOC emission limit of 0.028 kg VOC/l acs (0.23 lb VOC/gal acs) based on control of the curing oven emissions only with thermal oxidation (*e.g.,* an RTO) achieving 95 percent DRE of the captured emissions. This VOC emission limit is demonstrated by 13 of the 44 existing ALDT facilities and the EPA determined the cost effectiveness for this option to be $6,800/ton of VOC reduced. The EPA considered this option to be cost-effective over the baseline level of control and to be consistent with one of the compliance options for EDP prime coat systems in the ALDT NESHAP.

The second option was a numerical VOC emission limit of 0.005 kg/l acs (0.040 lb VOC/gal acs) based on control of both the oven and the tank emissions with an RTO capable of achieving 95 percent DRE. Four plants control the emissions from the EDP prime coat dip tank in addition to the oven emissions with some form of thermal oxidation. At proposal, the EPA determined the second option to be not cost-effective and not reflective of BSER because the cost effectiveness of controlling the tank emissions was estimated to be $91,100 per ton of VOC reduced. In addition, the EPA estimated the second option would only achieve an additional 3 tpy of VOC reductions over the first option and would have an estimated incremental cost effectiveness of $46,000 per ton of VOC reduced compared to the first option. Due to the poor cost-effectiveness of this option relative to the baseline level of control and the likewise unfavorable incremental cost-effectiveness of this option when

compared to the first option, we rejected the second option as the BSER.

The EPA proposed the first option of 0.028 kg VOC/l acs (0.23 lb VOC/gal acs) with a cost effectiveness of $6,800/ton of VOC reduced, which reflects the EPA's determination that control of the curing oven emissions with thermal oxidation that is capable of achieving 95 percent DRE represents the updated BSER for the prime coat operations. The proposed emission limit for the EDP prime coat operation did not include the solids turnover ratio (R_T), which is a factor in determining compliance with the VOC emission limit for the prime coat dip tank in the subpart MM. This factor was not proposed because it is not included in the facility permits with more stringent limits than the current prime coat operation VOC limits, which were the basis of our revised BSER determination (87 FR 30148, May 18, 2022). We also proposed a non-EDP limit of 0.028 kg VOC/l acs (0.23 lb VOC/gal acs) for spray application of the prime coat based on industry input.

b. How the Final Revisions to Prime Coat Limits Differ From the Proposed Revisions

As a result of comments received for the prime coat operation, in subpart MMa the EPA is finalizing a revised prime coat operation limit with the inclusion of the solids turnover ratio (R_T). The EPA is promulgating the following limits for the prime coat operation in 40 CFR 60.392a depending on the solids turnover ratio (R_T); for R_T greater than 0.16, the limit is 0.027 kg VOC/l acs (0.23 lb VOC/gal acs); for turnover ratios less than 0.04 (*i.e.,* periods of non-production), there is no emission limit; and when the solids turnover ratio is between 0.04 and 0.16 (inclusive), the emission limit is determined using the following equation:

Limit = $0.027 \times 350\ (^{0.160 - R_T})$ kg of VOC per liter of applied coating solids.

The EPA is also including the definition of solids turnover ratio in 40 CFR 60.391a.

c. Prime Coat Limits Comments and Responses

Comment: One commenter stated that the subpart MMa prime coat operation standards should reflect a modern E-coat system with VOC controls on emissions from the curing oven. According to the commenter, anything more would not be cost-effective and would only reduce insignificant amounts of VOC.

Response: As a result of the BSER determination for the prime coat operation, the EPA is finalizing, as proposed, standards that reflect a modern EDP prime coat (E-coat) system with control of VOC emissions from the curing oven. The final prime coat operation standard reflects a numeric limit of 0.23 lb VOC/gal acs with a cost effectiveness of $6,800/ton VOC reduced, as proposed. The EPA estimates the VOC emission reduction associated this final limit to be 40 tpy compared to the 1980 NSPS baseline level of control.

Comment: Two commenters asserted that the EPA must include the solids turnover ratio factor in the emission limit for prime coat operation. Regarding the decision to exclude the option of utilizing the solids turnover for prime coat compliance demonstrations, one commenter stated that the EPA needs to review the extensive data and supporting comments that served as the basis for the 1994 final rule that established the prime coat limits as a function of the solids turnover ratio. The commenter stated that the rationale was compelling then, and it is equally compelling now, and that the EPA has not adequately explained how prime coat downtime or reduced throughput would be accommodated under the newly proposed standard and why a change is needed. The commenter stated that eliminating consideration of the solids turnover ratio would be arbitrary and capricious. With the solids turnover ratio, the commenter stated, the prime coat limit of 0.23 lbs VOC/gal acs can be achieved when the solids turnover ratio is greater than or equal to 0.16. One commenter asserted that without the adjusted emission limit for low solid turnover ratios, the commenter could not achieve the existing NSPS limit.

Response: In the proposal the EPA noted that ALDT prime coat operation permit limits did not include a factor to account for the solids turnover ratio, and the EPA understood that to mean that facilities currently using the EDP prime coat process are now able to consistently maintain the solids turnover ratio (R_T) at a value equal to or greater than 0.16 (87 FR 30148, May 18, 2022). Therefore, we proposed a prime coat limit of 0.23 lbs VOC/gal acs based on sources' control of the curing oven emissions with thermal oxidation (*e.g.,* an RTO) achieving 95 percent DRE without the R_T factor. After consideration of the 1994 final rule (59 FR 51383, October 11, 1994) and in response to the commenters' argument, we are retaining the R_T factor to account for periods of non-production and reduced throughput. Thus, the EPA is promulgating the following limits in 40 CFR 60.392a depending on the solids turnover ratio (R_T); for R_T greater than 0.16, the limit is 0.027 kg VOC/l acs (0.23 lb VOC/gal acs); for turnover ratios less than 0.04 (periods of non-production), there is no emission limit; and when the solids turnover ratio is between 0.04 and 0.16 (inclusive), the emission limit is determined using the following equation:

Limit = $0.027 \times 350\ (^{0.160 - R_T})$ kg of VOC per liter of applied coating solids

2. Guide Coat Operation

a. Proposed Emission Limit

For the guide coat operation, at proposal the EPA evaluated four regulatory options. These regulatory options were more stringent than the ALDT NSPS MM limit of 1.40 kg VOC/l acs (11.7 lb VOC/gal acs). These options were based on 14 facilities with 31 guide coat operations subject to more stringent guide coat limits than the current ALDT NSPS MM guide coat limit (87 FR 30141; May 18, 2022). The guide coat emission limits found in permits for facilities using liquid coatings that were more stringent than the ALDT NSPS MM limit ranged from 0.060 to 1.21 kg VOC/l acs (0.050 to 10.11 lb VOC/gal acs) and 27 of the 31 guide coat operations were subject to limits less than or equal to 0.69 kg VOC/l acs (5.5 lb VOC/gal acs). Three of the 31 guide coat operations with limits more stringent than the ALDT NSPS MM are meeting a lower emission limit (less than 0.060 kg VOC/l acs (0.050 lb VOC/gal acs)) or have no emission limit based on the use of powder guide coat and no controls.

The first option evaluated at proposal for the guide coat operation was a numerical VOC emission limit of 0.57 kg VOC/l acs (4.8 lb VOC/gal acs) to reflect control of the guide coat oven with an RTO achieving 95 percent DRE and use of solvent borne or waterborne coating and no control of the guide coat spray booth or heated flash off area exhausts. The facilities using this system of emission reduction had limits in the range of 0.41 to 0.66 kg VOC/l acs (3.46 to 5.5 lb VOC/gal acs). This limit option was selected because it is the most common numerical limit for these facilities and matches the operating permit limit for 9 facilities with this control scenario. The EPA estimated that this option would reduce emissions from a typical guide coat operation by about 40 tpy of VOC at a cost of $4,400 per ton of VOC reduced.

The second option evaluated was a VOC emission limit of 0.35 kg VOC/l acs (2.92 lb VOC/gal acs) to reflect control of the guide coat spray booth and oven with either a carbon adsorber and an

RTO or a concentrator and an RTO, with the RTO achieving 95 percent DRE of the captured emissions and the use of solvent borne guide coat. This VOC emission limit matches the 2020 presumptive best available control technology (BACT) emission limit for the guide coat operation identified by EPA Region 5, and 2 facilities are currently subject to this limit. The EPA estimated that this option would reduce emissions from a typical guide coat operation by about 50 tpy of VOC at a cost of $4,900 per ton of VOC reduced.

The third option was a VOC emission limit of 0.036 kg VOC/l acs (0.30 lb VOC/gal acs) to reflect the use of a waterborne guide coat demonstrated by 1 facility employing the use of a 3-wet coating process. As described in the proposal, in a 3-wet process the guide coat and topcoat operations are combined, and the guide coat oven is replaced by a heated flash off area, resulting in lower emissions from the guide coat operation and a more efficient process in terms of time and energy savings for the facility. The process consists of a series of 2 separate booths with heated flash off areas for partial cure (one for the guide coat and one for the basecoat), followed by a clearcoat booth, a flash off area, and a topcoat oven (where the guide coat, the basecoat, and the topcoat are fully cured). Only one facility with 2 guide coat operations is subject to this VOC emission limit (0.036 kg VOC/l acs (0.30 lb VOC/gal acs)) and uses the 3-wet process for the guide coat operation. The costs associated with this option are for controlling the guide coat heated flash off area emissions with an RTO achieving 95 percent DRE of the captured emissions. The EPA estimated that this option would reduce emissions (from a typical guide coat operation) by about 73 tpy of VOC at a cost of $3,250 per ton of VOC reduced. As discussed in the proposal, although this option is cost-effective when considering the cost of controls, the emission limit would be achievable only for guide coat operations as part of a 3-wet combined guide coat and topcoat operation. Further, it would be not cost-effective for the purposes of this BSER analysis due to the major capital investment associated with reconfiguring the guide coat operation so that it could become part of a 3-wet combined guide coat and topcoat operation.

The fourth option we considered was a numerical VOC limit of 0.016 kg VOC/l acs (0.13 lb VOC/gal acs) to reflect the use of a powder guide coat, instead of a liquid coating. One facility is subject to an emission limit of 0.016 kg VOC/l acs (0.13 lb VOC/gal acs), and 3 facilities either are subject to a lower emission limit than 0.016 kg VOC/l acs (0.13 lb VOC/gal acs) or have no emission limit based on the use of powder guide coat and no controls. As discussed in the proposal, operations using powder coatings are essentially non-emitting operations because the dry powder coating has no solvent. Therefore, guide coat operations using powder coatings emit virtually no VOCs from the booth, flash off area(s), or curing oven. The use of powder for the guide coat operation could eliminate all VOC emissions from a typical guide coat operation with no additional control costs and could be the best environmental outcome. However, the industry has experienced difficulties (including appearance and finish quality) with the application of powder coatings to ALDT vehicle bodies, so we considered this option to be not adequately demonstrated. Further, it would not be cost-effective for the purposes of this BSER analysis for a reconstructed or modified operation due to the major capital investment associated with switching the guide coat operation from a liquid coating application to a powder coating application.

After consideration of all guide coat options, the EPA proposed a revised VOC limit of 0.35 kg VOC/l acs (2.92 lb VOC/gal acs) for the guide coat operation based on Option 2, being the use of solvent borne guide coat and 95 percent control of the spray booth and oven with either a carbon adsorber and an RTO or a concentrator and an RTO, with the RTO achieving 95 percent DRE of the captured emissions, as the updated BSER for guide coat operation. This option also represents the lower range of emission limits for facilities using solvent borne guide coats and is demonstrated by 3 of 44 existing ALDT plants.

b. How the Final Revisions to Guide Coat Limits Differ From the Proposed Revisions

After considering the comments on the proposed revisions to the guide coat emission limit, the EPA is finalizing the guide coat operation VOC emission limit as proposed.

c. Guide Coat Comments and Responses

The EPA received comments on the guide coat operation that caused us to further evaluate the use of waterborne and solvent borne coatings and to investigate the controls used for each, as described in the EPA response in this section.

Comment: One commenter asserted that reliance on New Source Review (NSR) BACT and LAER determinations in setting subpart MMa emissions standards would result in unreasonably constrained national standards. For example, according to the commenter, the proposed guide coat standard based on a BACT determination for solvent-based systems using add-on booth controls does not reasonably or adequately accommodate waterborne guide coat systems.

The commenter also provided determinations for 2 case studies for guide coat operations with BACT limits in ALDT plants located in the state of Indiana to support their claim that the proposed subpart MMa emissions standards for the guide coat operations are not cost-effective for sources using waterborne coatings. The commenter stated the standards must be adjusted to avoid the need to install cost-ineffective spray booth controls on waterborne guide coat lines.

Response: The EPA considered the VOC emission limits in ALDT plant title V permits in its BSER analysis, including those that were derived from BACT determinations. The EPA did not consider the limits that were derived from LAER determinations in its BSER analysis, except for limits that were determined to be both BACT and LAER. The EPA considered these VOC emission limits in its BSER review because they represented the best available control technology at the time, were developed by the individual ALDT plants, are inherently cost-effective, and were approved by state and local permitting authorities. However, as required by CAA section 111(b)(1)(B), the EPA conducted its own cost-effectiveness and other analyses to determine BSER, as described in the proposal (87 FR 30141, May 18, 2022).

The EPA disagrees that the proposed guide coat standard is based on a BACT determination for solvent-based systems using add-on booth controls that does not reasonably or adequately accommodate waterborne guide coat systems. In our review of guide coat operations, we generally found that most operations use solvent borne coatings. However, for guide coat operations with VOC emission limits lower than the 1980 ALDT NSPS limit, we found 8 operations using a waterborne coating (the rest use a solvent borne coating). For guide coat operations, we are clarifying the description included in the proposal for the 2 cost-effective options (Option 1 and Option 2) to distinguish between the use of waterborne basecoat and solvent borne coatings, as described here.

The first option for guide coat operations was represented by plants using either waterborne or solvent borne coatings achieving a numerical VOC emission limit of 4.8 lb VOC/gal acs (0.57 kg VOC/l acs). We found that plants achieving the 4.8 lb VOC/gal acs limit using waterborne guide coat had no control of the booth or flash off area (for 3-wet operations) or controlled the guide coat oven with an RTO achieving 95 percent DRE of the captured emissions (if not a 3-wet operation). Plants achieving the 4.8 lb VOC/gal acs limit using solvent borne guide coat generally control one of the following: the guide coat spray booth, the guide coat flash off area, or the guide coat oven (if not a 3-wet operation).

The second proposed option for guide coat operations was represented by plants using either waterborne or solvent borne coatings achieving a numerical VOC emission limit of 2.92 lb VOC/gal acs (0.35 kg VOC/l acs). We found that plants subject to and achieving the 2.92 lb VOC/gal acs limit used either: (1) waterborne guide coat and control of the flash off area with no control of the booth; or (2) solvent borne guide coat and control of the booth and oven with either a carbon adsorber and an RTO or a concentrator and an RTO, with the RTO achieving 95 percent DRE of the captured emissions.

During our review since proposal, we updated the cost effectiveness calculations for the guide coat operation by increasing the interest rate to 7 percent and the Chemical Engineering Plant Cost Index (CEPCI) to the 2021 index, to estimate the incremental cost effectiveness between two guide coat options and found it to be reasonable at $6,670/ton VOC reduced. We determined this incremental cost effectiveness has a lower cost per ton of VOC reduced than the cost effectiveness for the prime coat operation ($6,800/ton VOC reduced) and results in greater VOC emission reductions (147 tpy compared to 40 tpy for prime coat) when compared to the 1980 NSPS baseline level of control.

The EPA also collected compliance data from one ALDT plant cited by the commenter, Subaru of Indiana, covering the period from 2019 to 2021 and these data show that the waterborne guide coat operations are consistently achieving a daily emission rate of 2.1 to 2.2 lb VOC/gal acs. These achieved emission rates are about 75 percent of the proposed monthly emission rate of 2.92 lb VOC/gal acs. The waterborne guide coat operations at Subaru Indiana Automotive are subject to a BACT emission limit of 4.8 lb VOC/gal acs, and do not apply emission reductions from any add-on controls to achieve compliance. These data support the EPA's proposed emission limit of 2.92 lb VOC/gal acs and the determination that this emission limit is achievable in a cost-effective manner for both waterborne and solvent borne guide coat systems.

Therefore, the EPA disagrees that the proposed standard does not reasonably or adequately accommodate waterborne guide coat systems and is finalizing the guide coat emission limit, as proposed. Additional detail is provided in the memorandum titled, *Final Cost and Environmental Impacts Memo for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category (40 CFR part 60, subpart MMa),* located in the docket for this action.

Comment: One commenter recommended a guide coat standard of 4.8 lb VOC/gal acs for new and reconstructed facilities. This standard has been achieved in the ALDT sector in cases where a waterborne guide coat is used with VOC controls on the oven, but no additional VOC controls on the booth. For modifications, the commenter recommended the EPA maintain in subpart MMa the subpart MM VOC emission limit for guide coat operations. The commenter stated that the EPA has not considered the cost-effectiveness to implement a lower standard in the event of a modification of a guide coat affected facility.

Response: As a result of the BSER review, the EPA has determined that a guide coat standard of 2.92 lb VOC/gal acs reflects BSER for new, reconstructed, and modified sources. We found this option to be achievable for both waterborne and solvent borne coating applications and the emission limit is consistent with the 2020 presumptive BACT emission limit identified by U.S. EPA Region 5. Contrary to the commenter's statement, we found that plants achieving the 4.8 lb VOC/gal acs limit used waterborne guide coat and no control of the booth or flash off area. This numeric limit would represent no change from the 1980 NSPS MM level of no control for waterborne guide coat operations (*i.e.,* the 1980 limit and the limit of 4.8 lb VOC/gal acs could both be achieved by plants with no add-control of the waterborne guide coat operations). Our analysis indicates that waterborne guide coat operations can achieve a limit of 2.92 lb VOC/gal acs by controlling the emissions from the waterborne guide coat flash off area. The EPA identified this as the difference between the 2 guide coat options with an incremental cost effectiveness of $6,670 per ton of VOC reduced.

During our review we identified no modifications (consistent with part 60 definitions and proposed subpart MMa exceptions) for guide coat operations. Instead, we found that guide coat systems are newly constructed or reconstructed (and not modified) at existing ALDT plants. Subpart MMa would not be triggered if the changes to an existing system do not meet either the part 60 definition of modification or the subpart MMa exceptions for modifications. For these reasons subpart MM did not include separate emission limits for guide coat modifications, and separate emission limits were not proposed for the new subpart MMa. The commenter also provided no data or information to support a separate emission limit for modifications. Therefore, we are finalizing the proposed standard for the guide coat operation, including for modifications.

Additional detailed on modifications for ALDT affected facilities is provided in the document titled, *Summary of Public Comments and Responses on Proposed Rule: New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations (40 CFR part 60, subpart MM) Best System of Emission Reduction Review, Final Amendments,* Docket ID No. EPA–HQ–OAR–2021–0664.

3. Topcoat Operation

a. Proposed Emission Limit

The ALDT NSPS subpart MM topcoat limit is based on the application of topcoat in one booth. It is also based on no control of waterborne topcoats (*e.g.,* waterborne base coat and clearcoat) if used, or based on 95-percent control of the topcoat booth and oven VOC emissions if solvent borne topcoats (solvent borne base coat and clearcoat) are used with a thermal or catalytic oxidizer.

For the topcoat operation, at proposal, the EPA evaluated 2 regulatory options. These regulatory options were more stringent than the ALDT NSPS MM limit of 1.47 kg VOC/l acs (12.3 lb VOC/gal acs). These options were based on 20 facilities operating approximately 25 topcoat lines that are subject to more stringent topcoat limits than the topcoat VOC limit in the ALDT NSPS MM (87 FR 30150; May 18, 2022). The topcoat VOC emission limits more stringent than the current ALDT NSPS MM range from 0.28 to 1.44 kg VOC/l acs (2.32 to 12.0 lb VOC/gal acs). The regulatory options include the use of add-on controls for both waterborne and solvent borne basecoats and the use of add-on

controls for solvent borne clearcoats (the EPA is not aware of any facilities in the U.S. using waterborne clearcoats).

The first option evaluated in the ALDT NSPS review for the topcoat operation is a numerical topcoat limit of 0.62 kg VOC/l acs (5.20 lb VOC/gal acs) demonstrated by 6 facilities with 11 topcoat operations with control of the clearcoat spray booth and the topcoat oven with a concentrator, such as a carbon adsorber or rotary carbon adsorber, followed by a thermal oxidizer, usually an RTO achieving 95 percent DRE of the captured emissions. The EPA estimated this option would reduce VOC emissions from a typical topcoat operation by 110 tpy of VOC at a cost of $5,200 per ton of VOC reduced.

The second option considered by the EPA for the topcoat operation is a numerical topcoat limit of 0.42 kg VOC/l acs (3.53 lb VOC/gal acs) demonstrated by 2 facilities operating 3 coating lines (corrected in this final action to reflect 3 facilities operating 4 coating lines) with control of the basecoat spray booth and/or the basecoat flash off area, as well as the clearcoat spray booth and topcoat oven. The add-on controls used by facilities include a thermal oxidizer, usually an RTO achieving 95 percent control of the captured emissions and a concentrator, such as a carbon adsorber or rotary carbon adsorber before the RTO (same as the first option). For this option, the emissions from the basecoat spray booth and/or the basecoat flash off area would also be routed to the concentrator before going to the RTO. This option also represents the lower range of emission limits for topcoat operations using solvent borne basecoat and clearcoats and it matches the 2020 presumptive BACT emission limit identified by EPA Region 5. The EPA estimated that this option would reduce emissions from a typical topcoat operation by 160 tpy of VOC at a cost of $7,900 per ton of VOC reduced (corrected in this final action). The EPA proposed a revised VOC limit of 0.42 kg VOC/l acs (3.53 lb VOC/gal acs) for the topcoat operation based on Option 2.

After consideration of the 2 topcoat options, the EPA proposed option 2, a revised VOC limit of 0.42 kg VOC/l acs (3.53 lb VOC/gal acs) for the topcoat operation based on control of the basecoat spray booth and/or the basecoat heated flash off area, as well as the clearcoat booth and the topcoat oven with an RTO or a combination of a concentrator and RTO, with the RTO achieving 95 percent DRE of the captured emissions.

b. How the Final Revisions to Topcoat Limits Differ From the Proposed Revisions

After considering the comments on the proposed revisions to the topcoat emission limit, the EPA is finalizing the topcoat operation VOC emission limit, as proposed.

c. Topcoat Comments and Responses

Similar to the guide coat operation, the EPA received comments on the topcoat operation that caused us to further evaluate the use of waterborne and solvent borne coatings and to further investigate the controls used for each. This evaluation resulted in the finding that topcoat operations using a waterborne basecoat and achieving the 3.53 lb VOC/gal acs limit are doing so by controlling the waterborne basecoat booth and/or flash off area, as stated in the EPA response in this section. During this evaluation we also updated the cost effectiveness calculations for the topcoat operation by increasing the interest rate to 7 percent and the CEPCI to the 2021 index, we made a correction to the proposed topcoat cost effectiveness calculations, and we estimated the incremental cost effectiveness between the two topcoat options.

Comment: One commenter stated that the EPA cannot use Prevention of Significant Deterioration (PSD) permits by themselves as a basis for setting national emissions standards, but that PSD permits do provide useful information as to what emissions control alternatives should be rejected, since state permitting agencies routinely use incremental cost-effectiveness analysis in assessing emissions control alternatives in PSD permitting. The commenter provided determinations for 2 case studies for topcoat operations with BACT limits in the state of Indiana to support their claim that the proposed subpart MMa emissions standards for the topcoat operations are not cost-effective for sources using waterborne coatings. The commenter stated the standards must be adjusted to avoid the need to install cost-ineffective spray booth controls on waterborne topcoat lines.

Response: CAA section 111(b)(1)(B) requires the EPA to conduct its own cost effectiveness determination as part of the BSER analysis. As part of that analysis, the EPA also considered these same topcoat operations identified by the commenter in the 2 case studies cited by the commenter in its BSER review. The BACT limits referred to by the commenter, reflected in the ALDT plants' title V operating permits, are lower than the 1980 subpart MM emissions limits for topcoat operations. Thus, even the examples provided by the commenters indicate that ALDT plants can achieve a greater level of emission reductions in topcoat operations than the current standards. In addition, the EPA identified topcoat operations achieving lower VOC emission limits than those reflected in the 2 case studies and determined the proposed limit for the topcoat operation is achievable and cost-effective.

In our review of topcoat operations, we found that more plants use waterborne than solvent borne coatings for the basecoat and that all plants use solvent borne clearcoats. For topcoat operations, we are clarifying the description of the 2 cost-effective options included in the proposal to better distinguish between the use of waterborne and solvent borne coatings, as described here.

For topcoat operations, the first option was represented by plants achieving a BACT limit of 5.2 lb VOC/gal acs by controlling the solvent borne clearcoat process only and no control of the waterborne basecoat part of the topcoat operation. We found that plants achieving a limit of 5.2 lb VOC/gal acs used: (1) waterborne basecoat and no control of the basecoat booth and no control of the heated flash off area; and (2) solvent borne clearcoat with control of the automated sections of the clearcoat booth and the clearcoat flash off area and the topcoat (combined basecoat and clearcoat) oven. The automated sections of the solvent borne clearcoat booth are controlled by either an RTO or a combination of a concentrator and an RTO. The concentrators include a carbon or zeolite adsorber (either a dual bed system or rotary wheel system) before the RTO, and most RTOs achieve greater than 95 percent DRE of the captured emissions. The topcoat oven is controlled with an RTO that achieves 95 percent DRE of the captured emissions. For topcoat operations using a waterborne basecoat, this numeric limit would represent no change from the 1980 NSPS level of no add-on control of the waterborne basecoat. For topcoat operations using a solvent borne clearcoat, this numeric limit would represent an increase from the 1980 NSPS level of add-on control (control of the automated sections of the clearcoat booth and flash off area). Therefore, the cost effectiveness for this option reflects the emission reductions and costs associated with controlling the solvent borne clearcoat process.

For topcoat operations, the proposed second option was represented by plants achieving a BACT limit of 3.53 lb

VOC/gal acs by controlling both the waterborne basecoat and solvent borne clearcoat parts of the topcoat operation. We found that plants achieving a limit of 3.53 lb VOC/gal acs limit used: (1) waterborne basecoat with control of the booth and/or the flash off area with an RTO; and (2) solvent borne clearcoat with control of the automated sections of the clearcoat booth, the clearcoat flash off area and the topcoat (combined basecoat and clearcoat) oven, as described in the first topcoat option. For waterborne basecoat operations, this numeric limit represents an increase in the level of control (control of the waterborne basecoat booth and/or flash off area) compared to the 1980 NSPS (no control). For solvent borne clearcoat operations, this numeric limit represents the same increase in the level of control (compared to the 1980 NSPS) as the first topcoat option (by adding control of the automated sections of the clearcoat booth and flash off area), and no change when compared to the first topcoat option. Therefore, the cost effectiveness for the second topcoat option reflects the emission reductions and costs associated with controlling the water borne basecoat process.

As a result of the BSER analysis for the topcoat operation, the EPA is clarifying that the difference between the 2 options is due to control of VOC emissions from the waterborne base coat booth and/or flash off area with an incremental cost effectiveness of $6,500 per ton of VOC reduced. Therefore, the EPA has determined that the proposed standard is achievable using either solvent borne or waterborne topcoat systems and is finalizing the proposed limits for the topcoat operation in subpart MMa. Additional detail is provided in the memorandum titled, *Final Cost and Environmental Impacts Memo for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category (40 CFR part 60, subpart MMa),* located in the docket for this action.

Comment: One commenter claimed the proposed analysis is flawed because it is not based on an incremental evaluation of regulatory alternatives. The commenter stated that the subpart MMa proposal contains analysis of 2 control options for topcoat lines and it does not evaluate the incremental cost-effectiveness of option 2 as compared to option 1. The commenter stated that option 1 was based on control of the clearcoat spray booth and the topcoat oven and option 2 was based on control of the basecoat spray booth/flash off area as well as clearcoat booth and oven. According to the commenter, option 2 further reduces VOC by 50 tons with an incremental cost-effectiveness of $13,840/ton of VOC reduced, a value that is facially not cost-effective using the EPA's usual cost effectiveness thresholds for VOCs. Moreover, the commenter stated that this value exceeds levels that the EPA has rejected in other rules as not being incrementally cost-effective. According to the commenter, in a recently proposed NSPS for Bulk Gasoline Terminals, the EPA determined that in setting emission limits for loading operations the incremental cost effectiveness of $8,300/ton of VOC reduced was not cost-effective.

Response: The EPA is clarifying the description of the options in the proposal to distinguish between the use of waterborne and solvent borne coatings for the topcoat operation and has estimated the incremental cost-effectiveness of those options.

The 1980 subpart MM baseline level of control for topcoat operations (including basecoats) was a limit of 12.3 lb VOC/gal acs and required no control on waterborne coating operations. Our analysis indicates topcoat operations using waterborne basecoats are now achieving a limit of 5.2 lb VOC/gal acs using no control and that a lower limit of 3.53 lb VOC/gal acs is achieved by ALDT plants by controlling the emissions from the waterborne basecoat booth and/or flash off area. The cost effectiveness to control the waterborne basecoat booth or flash off area is $6,010 per ton of VOC reduced, which is the incremental cost effectiveness between the 2 topcoat options.

In this final action, the EPA is correcting an error in the proposal found while estimating the incremental cost effectiveness between the topcoat options. In its proposal for the second topcoat option, the EPA estimated an emission reduction of 160 tpy and a cost effectiveness of $7,900/ton VOC reduced to achieve the lower FCA Sterling Heights Assembly Plant limit of 2.32 lb VOC/gal acs (instead of the proposed 3.53 lb VOC/gal acs). The final estimated emission reduction and cost per ton for option 1 (5.2 lb VOC/gal acs) is 137 tons VOC reduced per year and $3,980/ton reduced. The revised emission reduction and cost effectiveness for the second topcoat option of 3.53 lb VOC/gal acs is 169 tpy and $4,370 per ton of VOC reduced compared to the 1980 baseline level of control, which the EPA determined to be reasonable. As a result, the EPA estimated the incremental emission reduction to be 32 tpy and estimated an incremental cost effectiveness between the 2 topcoat options to be $6,010 per ton of VOC reduced when compared to the cost and emission reduction estimated for option 1 at 5.2 lb VOC/gal asc.

The EPA determined the topcoat incremental cost effectiveness of $6,010 per ton of VOC reduced to be reasonable as an incremental cost. The topcoat incremental cost effectiveness of $6,010 per ton of VOC reduced is lower than the cost per ton of VOC reduced for the prime coat operation ($6,800/ton VOC reduced) and results in greater VOC emission reductions (169 tpy compared to 40 tpy for prime coat) when compared to the 1980 NSPS baseline level of control. This incremental cost effectiveness ($6,010 per ton of VOC reduced) is also lower than the incremental cost effectiveness value of $8,300/ton for modified and reconstructed loading operations that was rejected in the Bulk Gasoline Terminals NSPS cited by the commenter. The EPA also notes that, in any event, the Bulk Gasoline Terminals source category is a very different industry and emission source type and cannot be used to establish an incremental cost effectiveness boundary or threshold for ALDT surface coating operations. Revision of the standards of performance for each source category must reflect the degree of emission limitation achievable through the application of the BSER considering the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements (CAA section 111(a)(1)). Therefore, we are finalizing the 3.53 lb VOC/gal acs emission limit for the topcoat operation, as proposed. Additional detail on the topcoat cost effectiveness analysis is provided in the memorandum titled, *Final Cost and Environmental Impacts Memo for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category (40 CFR part 60, subpart MMa),* located in the docket for this action.

B. Work Practice Standards

1. Proposed Work Practice Standards

The EPA proposed work practice standards in the new subpart MMa to minimize fugitive VOC emissions from: (1) the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, the prime coat, guide coat and topcoat operations; and (2) the cleaning and purging of equipment associated with the prime coat, guide coat and topcoat operations. Subpart MMa affected sources are also required to develop and implement work practice plans consistent with the ALDT

NESHAP provisions, which we have determined to be BSER. The work practices include: the use of low-VOC and no-VOC alternatives; controlled access to VOC-containing cleaning materials; capture and recovery of VOC-containing materials; use of high-pressure water systems to clean equipment in the place of VOC-containing materials; masking of spray booth interior walls, floors, and spray equipment to protect from over spray; and use of tack wipes or solvent moistened wipes.

For fugitive emissions of VOC, the EPA evaluated work practices demonstrated by 43 of 44 existing ALDT plants currently subject to ALDT NESHAP in 40 CFR 63.3094 as discussed in the proposal (87 FR 30151; May 18, 2022). The EPA proposed these work practices and the development and implementation of work practice plans for the ALDT NSPS MMa to minimize fugitive VOC emissions from the storage, mixing, and conveying of VOC-containing materials that include the coatings, thinners, and cleaning materials used in, and waste materials generated by, the prime coat, guide coat and topcoat operations. The EPA also proposed work practices and the development and implementation of work practice plans for the ALDT NSPS MMa to minimize fugitive VOC emissions from the cleaning and purging of equipment. The EPA proposed VOC minimizing practices including: the use of low-VOC and no-VOC alternatives; controlled access to VOC-containing cleaning materials; capture and recovery of VOC-containing materials; use of high-pressure water systems to clean equipment in the place of VOC-containing materials; masking of spray booth interior walls, floors, and spray equipment to protect from over spray; and use of tack wipes or solvent moistened wipes. The EPA considers these work practices to reflect BSER for controlling fugitive emissions of VOC.

As discussed in the proposal, CAA section 111(h)(1) authorizes the Administrator to promulgate ''a design, equipment, work practice, or operational standard, or combination thereof'' if in his or her judgment, ''it is not feasible to prescribe or enforce a standard of performance.'' CAA section 111(h)(2) provides the circumstances under which prescribing or enforcing a standard of performance is ''not feasible,'' such as when the pollutant cannot be emitted through a conveyance designed to emit or capture the pollutant, or when there is no practicable measurement methodology for the particular class of sources.

The results of our BSER review did not identify any ALDT facilities demonstrating add-on controls for these fugitive VOC emissions, and because these emissions are from various sources and activities located throughout the ALDT facility and are generally released into the ambient air from various locations throughout the facility, the EPA determined that it would not be feasible to route these fugitive VOC emissions to capture and control systems. The sources of fugitive VOC emissions include: containers for VOC-containing materials used for wipe-down operations and cleaning; spills of VOC-containing materials; the cleaning of spray booth interior walls, floors, grates and spray equipment; the cleaning of spray booth exterior surfaces; and the cleaning of equipment used to convey the vehicle body through the surface coating operations.

2. How the Final Revisions to Work Practice Standards Differ From the Proposed Revisions

After considering the comments on the proposed work practice standards, the EPA is finalizing the work practice standards, as proposed.

3. Work Practice Standards Comments and Responses

Comment: Three commenters requested that the EPA provide a compliance alternative such that compliance with the elements of the ALDT NESHAP work practice plan that incorporate subpart MMa requirements for VOC represent compliance with subpart MMa. The commenter refers to the subpart MMa proposal where the EPA stated that ''[f]acilities demonstrating compliance with the ALDT NESHAP Subpart IIII work practice provisions will be in compliance with these same requirements in the revised ALDT NSPS Subpart MMa'' and requests that this condition be added to the subpart MMa rule text to streamline the permitting process and to avoid the use of repetitive permit terms in site compliance systems. The commenters provided suggestions for subpart MMa regulatory text in their comments.

Response: In subpart MMa, 40 CFR 60.392a provides the work practices to minimize fugitive emissions of VOC from materials and equipment associated with coating operations for which emission limits are established under 40 CFR 60.392a(a). These coating operations are the prime coat, guide coat and topcoat operations that are subject to MMa due to construction, reconstruction, or modification after May 18, 2022. Subpart MMa, 40 CFR 60.392a(b) provides the work practices for storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, all coating operations for which emission limits are established under 40 CFR 60.392a(a). In subpart MMa, 40 CFR 60.392a(c) provides the work practices for cleaning and purging of equipment associated with all coating operations for which emission limits are established under 40 CFR 60.392a(a).

These same work practices are required by the ALDT NESHAP to minimize fugitive emissions of organic HAP. However, the ALDT NESHAP applies to the subpart MMa sources as well as additional ALDT surface coating operations including operations for paint repair, underbody coating, sealers, *etc.* (*i.e.,* the NESHAP has broader applicability than subpart MMa). In addition, low-HAP-containing materials are not necessarily low-VOC-containing materials. For example, methyl ethyl ketone (MEK) was delisted as a HAP but is still considered to be a VOC. In addition, due to the potential for changes to the work practice standards in future ALDT NSPS and ALDT NESHAP rulemakings, the EPA is not providing a compliance alternative in subpart MMa to say that compliance with elements of the ALDT NESHAP work practice plans represents compliance with subpart MMa. After considering the comments on the proposed work practice standards, the EPA is finalizing the work practice standards, as proposed.

C. Plastic Parts Provision

1. Proposed Plastic Parts Provision

The EPA is also finalizing, as proposed, revision of the plastic parts provision so that subpart MMa applies to the surface coating of all vehicle bodies, including all-plastic vehicle bodies, to reflect changes in coating technology since the original ALDT NSPS MM and to make the requirements consistent for all ALDT surface coating facilities subject to subpart MMa (87 FR 30151–30152, May 18, 2022).

Based on the BSER review required by CAA section 111(b)(1)(B), the EPA proposed to remove the all-plastic vehicle body exemption from subpart MM in subpart MMa. One affected ALDT plant that uses waterborne (and solvent borne) coatings on all-plastic bodies is not subject to the ALDT NSPS subpart MM due to this exemption. The exemption was based on an industry comment the EPA received during development of the 1980 ALDT NSPS stating that compliance with subpart

MM was not possible due to the significant problems associated with the use of waterborne topcoats on plastic substrates due to the high temperature required to cure the waterborne coatings [1] (87 FR 30152; May 18, 2022). The EPA is finalizing that subpart MMa applies to the surface coating of all vehicle bodies, including all-plastic vehicle bodies. This requirement that includes all-plastic vehicle bodies in subpart MMa reflects BSER because the coating of the vehicle bodies using waterborne coatings has been demonstrated and it is expected that new all-plastic vehicle body surface coating operations can use the same technology as other facilities to meet the emission limits that reflect the application of BSER.

2. How the Final Revisions to the Plastic Parts Provision Differ From the Proposed Revisions

After considering the comment on the proposed plastic parts provisions, the EPA is finalizing the plastic parts provisions in subpart MMa, as proposed.

3. Plastic Parts Provision Comment and Response

Comment: One commenter supported the EPA's decision to exclude the coating of plastic parts from regulation under the proposed 40 CFR part 60, subpart MMa.

Response: The EPA acknowledges the commenters support of the proposed amendment to the rule.

D. Testing, Monitoring, Recordkeeping, and Reporting Provisions

1. Proposed Testing, Monitoring, Recordkeeping, and Reporting Provisions

The NSPS developed under CAA section 111 are required to reflect the best system of emission reduction under conditions of proper operation and maintenance. For the NSPS review, the EPA also evaluates and determines the proper testing, monitoring, recordkeeping, and reporting requirements needed to ensure compliance with the performance standards.

As a result of our review, we evaluated the testing, monitoring, recordkeeping, and reporting requirements for 43 of 44 ALDT plants currently subject to the ALDT NESHAP as discussed in the proposal (87 FR 30152; May 18, 2022) and proposed revisions to the ALDT NSPS MMa requirements. The EPA considers these to be appropriate means of ensuring compliance with the standards that reflect BSER. These requirements will provide for more robust testing, monitoring, and reporting than is required by the current ALDT NSPS MM and will align the new ALDT NSPS MMa and the ALDT NESHAP requirements. Facilities demonstrating compliance with the ALDT NESHAP requirements will have no additional burden complying with these same requirements in the new NSPS subpart MMa.

a. Capture and Control Devices

In addition to the thermal and catalytic incineration in the current ALDT NSPS MM, we proposed to add the control devices listed in Table 1 to subpart IIII of part 63—Operating Limits for Capture Systems and Add-On Control Devices (ALDT NESHAP Table 1) to the new ALDT NSPS subpart MMa. The additional control devices include regenerative carbon adsorbers, condensers, and concentrators (including zeolite wheels and rotary carbon adsorbers). We also proposed requirements for capture systems that are permanent total enclosures and capture systems that are not permanent total enclosures for the new NSPS subpart MMa to match the ALDT NESHAP requirements.

b. Operating Limits and Monitoring Provisions for Capture and Control Devices

In addition to updating the capture and control devices in the new ALDT NSPS subpart MMa, the EPA proposed operating limits and monitoring provisions for the capture and control devices to match the ALDT NESHAP requirements. These requirements include matching: (a) 40 CFR 63.3093 and the ALDT NESHAP Table 1; (b) the provisions for establishing control device operating limits in 40 CFR 63.3167; and (c) the provisions for the continuous monitoring system installation, operation, and maintenance of control devices in 40 CFR 63.3168.

c. Performance Testing of Capture and Control Devices

In addition to updating the capture and control devices in the new ALDT NSPS MMa, the EPA proposed initial capture performance testing and initial and periodic control device performance testing requirements in NSPS subpart MMa to match the ALDT NESHAP provisions in 40 CFR 63.3160 and 63.3160(c)(3). Periodic performance tests are used to establish or evaluate the ongoing destruction efficiency of the control device and establish the corresponding operating parameters, such as temperature, which can vary as processes change or as control devices age. The EPA also proposed control device destruction efficiency requirements to match the ALDT NESHAP provisions in 40 CFR 63.3166 for the new NSPS subpart MMa.

d. Recordkeeping and Reporting Provisions

The recordkeeping and reporting provisions proposed in the new ALDT NSPS MMa reflect the part 60 general provisions and are included in 40 CFR 60.395a. Subpart MMa requires quarterly or semiannual compliance reports, similar to subpart MM. Subpart MMa sources must identify, record, and submit a report every calendar quarter for each instance a deviation occurred from the emission limits, operating limits, or work practices. If no such instances have occurred during a particular quarter, a report stating such is required to be submitted semiannually.

2. How the Final Revisions to the Testing, Monitoring, Recordkeeping and Reporting Provisions Differ From the Proposed Revisions

After considering the comments on the proposed testing, monitoring, recordkeeping and reporting provisions, the EPA is finalizing these provisions, as proposed.

3. Testing, Monitoring, Recordkeeping and Reporting Comments and Responses

Comment: One commenter explained that during performance tests RTOs may experience a rise in combustion chamber temperature above the chamber temperature setpoint due to the high thermal efficiency of modern RTOs and the release of heat from materials contained in the incoming gases from various consolidated and concentrated VOC sources. The commenter requested that the EPA allow the performance test chamber temperature setpoint to be the minimum combustion temperature operating limit and revise 40 CFR 60.394a(a)(2) to either (a) allow the permit holder to establish the operating limit as equal to the combustion chamber temperature setpoint that has been established for the oxidizer based on previous source measurements that demonstrated compliance, or (b) allow the permit holder of the thermal oxidizer to apply to the Administrator for approval of an alternate operating limit under 40 CFR 60.13(i).

[1] Automobile and Light Duty Truck Surface Coating Operations, Background Information for Promulgated Standards, EPA–450/3–79–030b, September 1980, Comment 2.1.9, page 2–8.

Response: Subpart MMa requires initial and periodic performance testing of RTOs to demonstrate compliance with the required emission limits and to establish and demonstrate compliance with the operating limits for control devices. Subpart MMa at 40 CFR 60.392a(a) and 40 CFR 60.392a(g) require that the emission limits and the operating limits must be met at all times, including periods of SSM.

The commenter stated that RTOs ''may'' experience a higher combustion chamber temperature than indicated by the setpoint during performance testing and provided examples of RTOs operating at higher temperatures than the operating limit. However, the examples provided show that the sources have not demonstrated the RTO destruction or removal efficiency (DRE) at the setpoint, but instead demonstrated the capability of the RTO to meet the required DRE at whatever temperature the RTO was actually operating. The EPA agrees that the effect of solvent loading depends on the degree to which the various sources of VOC are consolidated and concentrated within the facility, as well as the thermal and destruction efficiency of the RTO. However, the commenter does not provide any data on the number of sources routed to the RTOs or any information about the RTOs such as the age or date of installation. The commenter also does not provide data related to the materials in the exhaust gases or the BTU content of these materials, or data related to the fuel used for the RTO. These data could be used to predict the combustion temperatures expected during performance testing. In addition to the subpart MMa and the part 60 general provision performance testing requirements, performance testing could also include the retest of various materials/fuel mixtures used, in order to identify the minimum operating temperature corresponding to the DRE needed demonstrate compliance. Therefore, the EPA considers this to be a site-specific issue that should be addressed on a case-by-case basis in accordance with 40 CFR 60.13(i).

The EPA bases its stack testing requirements on the *Clean Air Act National Stack Testing Guidance* dated April 27, 2009.[2] In this guidance the EPA recommends that performance tests for a facility operating under an emission rate standard or concentration standard, normal process operating conditions producing the highest emissions or loading to a control device would generally constitute the most challenging conditions for meeting the emissions standard. In these cases, the EPA recommends that the facility conduct a stack test at maximum capacity or the allowable/permitted capacity.

For both ALDT subparts MM and MMa, in which sources are subject to rate limits (mass VOC per volume of applied coating solids), testing should be conducted at maximum capacity or allowable/permitted capacity, and this could be expected to lead to the most challenging test conditions. Facility operators have several options if they expect that temperatures may rise above the set point during a compliance test. These include the following:

- If temperature rise is expected to occur when a facility is operating at maximum production, the facility operator may be able to adjust the set point prior to the test to prevent a temperature rise and achieve an average temperature operating limit more in line with the set point and representative minimum operating temperatures.
- The facility operator may request approval to use a VOC continuous emission monitoring system (CEMS) to continuously measure actual VOC emissions after the control device and use these direct VOC emission measurements in demonstrating compliance with the VOC emission rate limits.
- The facility operator may test at a lower average RTO temperature and use the DRE from that test in their compliance calculations and as the operating limit.

The temperature and thermal oxidizer DRE data in the stack tests collected by the EPA for this rulemaking show that DRE values are more variable at lower temperatures (*e.g.,* 92 to 98 percent DRE at 1400 degrees F) than at higher temperatures (*e.g.,* 96 to 99 percent DRE at 1500 degrees F) in the range between 1400 to 1550 degrees F. Because RTO temperature is an important determinant of DRE and DRE is used in the compliance calculations, it is important that the EPA ensure that RTOs are complying with an operating limit based on the actual temperature that corresponds to the DRE used in a facility's compliance calculations. Therefore, the EPA is finalizing the proposed monitoring and operating limit provisions for subpart MMa that rely on the actual measured combustion temperature rather than the set point.

To request approval of alternatives to any monitoring procedures or requirements of part 60, including the operating limits, subpart MMa refers to the part 60 general provisions at 40 CFR 60.13(i). Specifically, subpart MMa at 40 CFR 60.394a provides performance test requirements for RTOs and refers to 40 CFR 60.13(i) for alternative monitoring. Subpart MMa at 40 CFR 60.394a also refers to 40 CFR 60.392a(h) which states that if a source uses an add-on control device other than those listed in Table 1 to subpart MMa or wishes to monitor an alternative parameter and comply with a different operating limit, the source must apply to the Administrator for approval according to 40 CFR 60.13(i). The part 60 general provisions also provide an alternative to the monitoring requirements for VOC emissions in subpart MMa with a CEMS in accordance with 40 CFR 60.13(i).

Comment: One commenter agreed that the time periods of bypass on an air pollution control device must be recorded and factored into the monthly compliance calculation by assuming that during bypass periods, the control efficiency for that portion of the operation(s) is zero. However, the commenter believes the bypass should not be characterized as a deviation from the standard unless the emission limit is exceeded.

Response: The EPA disagrees with the commenter. Subpart MMa at 40 CFR 60.392a(a) and 60.392a(g) require that the emission limits and the operating limits for capture and control devices must be met at all times after they are established during the initial performance test. This includes periods of SSM. The ALDT NESHAP also includes these same requirements.

Subpart MMa at 40 CFR 60.392a(g) also refers to Table 1 to subpart MMa, *Operating Limits for Capture Systems and Add-On Control Devices,* and requires sources to establish operating limits during performance tests according to the requirements in 40 CFR 60.394a. Sources are required to comply with the applicable operating limits in Table 1; for example, for thermal oxidizers the average combustion temperature in any 3-hour period must not fall below the operating limit (combustion temperature limit) established according to 40 CFR 60.394a(a). The average combustion temperature maintained during the performance test establishes the operating limit (the minimum 3-hour average operating limit) for the thermal oxidizer. In addition, subpart MMa at 40 CFR 60.393a(c)(2) and (3) requires sources to demonstrate continuous compliance with the applicable operating limit, and if an operating parameter is out of the allowed range, as specified in Table 1, it is a deviation from the operating limit that must be

[2] See *https://www.epa.gov/compliance/clean-air-act-national-stack-testing-guidance.*

reported as specified by 40 CFR 60.395a(h).

As the commenter states, subpart MMa in 40 CFR 60.393a(c)(4) requires that if an operating parameter deviates from the operating limit specified in Table 1, sources must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation except as provided in 40 CFR 60.393a(m). For the purposes of completing the compliance calculations specified in 40 CFR 60.393a(j), the rule text reiterates that sources must assume that both the emission capture system and the add-on control device were achieving zero efficiency during the time period of the deviation.

Specifically for bypasses, subpart MMa in 40 CFR 60.393a(c)(6) requires sources to meet the requirements for bypass lines in 40 CFR 60.394a(h) for control devices (other than solvent recovery systems for which liquid-liquid material balances are conducted). If any bypass line is opened and emissions are diverted to the atmosphere when the coating operation is running, this is a deviation that must be reported as specified in 40 CFR 60.395a(h). Subpart MMa in 40 CFR 60.395a(h)(1) also requires sources to monitor or secure the valve or closure mechanism controlling the bypass line in a non-diverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. If any bypass line is opened, sources must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance report required by 40 CFR 60.395a. For the purposes of completing the compliance calculations specified in 40 CFR 60.393a(j), the rule text reiterates that sources must assume that both the emission capture system and the add-on control device were achieving zero efficiency during the time period of the deviation.

Comment: One commenter requested that the EPA modify the regulatory language in subparts MM and MMa to eliminate any quarterly reporting to align with the semiannual reporting frequency in the ALDT NESHAP and title V. The submittal of deviations should be addressed in a semiannual report as already required under the ALDT NESHAP in 40 CFR 63.3120(a) and under the title V requirements.

Response: The EPA disagrees with the commenter and provides the basis for the quarterly reporting requirement in the 1979 subpart MM proposal (44 FR 57801; October 5, 1979). We consider this basis to still be valid today. As discussed in the selection of monitoring requirements section, the EPA explained that monitoring requirements are generally included in the standards of performance to provide a means for enforcement personnel to ensure that the emission control measures adopted by a facility to comply with standards are properly operated and maintained. Each surface coating operation that has achieved compliance without the use of an add-on VOC emission control device would be required to monitor the average VOC content of the coating materials used in that operation. Generally, increases in the VOC content of the coating materials would cause VOC emissions to increase. These increases could be caused by the use of new coatings or by changes in the composition of existing coatings. Therefore, following the initial performance test, increases in the average VOC content of the coating materials used in each surface coating operation are required to be reported on a quarterly basis. For surface coating operations using add-on control devices, the monitoring of combustion temperatures is required. Following the initial performance test, decreases in the incinerator combustion temperature are required to be reported on a quarterly basis.

Less frequent reporting is provided for affected facilities demonstrating compliance with subpart MMa requirements after 1 year. The part 60 General Provision at 40 CFR 60.7 provides that reporting on a quarterly (or more frequent) basis may be reduced if the following conditions are met: (i) for 1 full year (*e.g.,* 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a part 60 standard continually demonstrate that the facility is in compliance with the applicable standard; (ii) the owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the applicable standard; and (iii) the Administrator does not object to a reduced frequency of reporting for the affected facility. Therefore, we are finalizing the proposed requirement for quarterly reporting in subpart MMa at 40 CFR 60.395a(d).

Comment: One commenter requested that the EPA provide flexibility in the NSPS MMa to submit compliance reports according to dates incorporated in title V operating permits, consistent with the provisions in the ALDT NESHAP. The commenter also recommended that the EPA allow NSPS reporting to align with any reporting date provisions in a title V operating permit.

Response: The EPA has revised the reporting requirements in subpart MMa at 40 CFR 60.395a (d) for compliance reports according to dates incorporated in title V operating permits, consistent with the provisions in the ALDT NESHAP at 40 CFR 63.3120.

E. Transfer Efficiency Provisions

1. Proposed Transfer Efficiency Provisions

The EPA proposed provisions to require the measurement of transfer efficiency (TE) and a separate calculation to account for the recovery of purge solvent in subpart MMa, to be consistent with the ALDT NESHAP. In addition, we proposed provisions that sources determine the TE for each guide coat and topcoat coating operation using either ASTM D5066–91 (Reapproved 2017) or the guidelines presented in the ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations,'' EPA–453/R–08–002, September 2008 (2008 ALDT Protocol). The EPA also proposed amendments for TE testing on representative coatings and for representative spray booths as described in the 2008 ALDT Protocol. In addition, the EPA proposed that sources can assume 100 percent TE for prime coat EDP operations.

2. How the Final Revisions to the Transfer Efficiency Provisions Differ From the Proposed Revisions

After considering the comments on the proposed transfer efficiency provisions for subpart MMa, the EPA is finalizing the transfer efficiency provisions, as proposed.

3. Transfer Efficiency Comment and Response

Comment: One commenter stated that subpart MMa emissions standards must provide the operational flexibility to employ a variety of coating application technologies and they must not be based on the assumption that all new, reconstructed, and modified facilities can achieve the highest levels of TE, because all facilities cannot do so.

Response: The EPA is finalizing in subpart MMa, as proposed, the measurement of the overall TE, which comprises all methods of spray application, for each guide coat and each topcoat operation subject to subpart MMa. These requirements are in accordance with the ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of

Automobile and Light-Duty Truck Topcoat Operations'' (2008 Auto Protocol), contrary to the comment that the EPA is requiring the highest levels of TE (87 FR 30141; May 18, 2022). The EPA is not prescribing any specific application methods or requirements for a minimum allowable TE in subpart MMa.

F. NSPS Subpart MMa Without Startup, Shutdown, Malfunction Exemptions

1. Proposed SSM Provisions

Consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. The NSPS general provisions in 40 CFR 60.8(c) currently exempt non-opacity emission standards during periods of SSM. We are finalizing in subpart MMa in section 40 CFR 60.392a specific requirements that override these general provisions for SSM requirements and match the SSM provisions in the ALDT NESHAP. In finalizing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained in this section of the preamble, has not finalized alternate standards for those periods. We discussed the potential need for alternative standards with industry representatives during the recent development of amendments to the ALDT NESHAP and during the proposal of this ALDT NSPS action. No issues were identified, and there are no data indicating problems with complying with these provisions during periods of startup and shutdown. Therefore, the EPA determined that no additional standards are needed to address emissions during these periods. The legal rationale and explanation of the changes for SSM periods are set forth in the proposed rule (see 87 FR 30153–30154, May 18, 2022). Further, the EPA did not propose and is not promulgating standards for malfunctions in this final action.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment (40 CFR 60.2). The EPA interprets CAA section 111 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA consider malfunctions when determining what standards of performance reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. While the EPA accounts for variability in setting emissions standards, nothing in CAA section 111 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting section 111 standards of performance. The EPA's approach to malfunctions in the analogous circumstances (setting ''achievable'' standards under CAA section 112) has been upheld as reasonable by the D.C. Circuit in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).]

2. How the Final Revisions to the SSM Provisions Differ From the Proposed Revisions

After considering the comment on the proposed revisions to the SSM provisions for subpart MMa, the EPA is finalizing the SSM provisions, as proposed.

3. SSM Provision Comment and Response

Comment: One commenter supported the EPA's proposal to remove startup, shutdown, and malfunction (SSM) regulatory loopholes, and additionally would like the EPA to also remove the SSM exemption from the NSPS general provisions.

Response: The EPA acknowledges the commenter's support of the proposed amendment to the rule and the commenter's suggestion to make a similar amendment to the 40 CFR part 60 general provisions. However, changes to the general provisions are outside the scope of this rulemaking action.

G. Electronic Reporting

1. Proposed Electronic Reporting Requirement

The EPA is finalizing the proposed requirement that owners and operators of affected facilities in the ALDT surface coating source category subject to the current and new NSPS at 40 CFR part 60, subparts MM and MMa submit electronic copies of required performance test reports and compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). We also are finalizing, as proposed, provisions that allow affected facility owners and operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the ALDT plant, *i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim (87 FR 30154; May 18, 2022). The final subpart MM and MMa electronic reporting provisions require performance test results and compliance reports to be submitted to the Administrator as required by 40 CFR 60.395(f) and 60.395a(f). These final electronic reporting provisions would not affect submittals required by state air agencies.

Current subpart MM and new subpart MMa affected sources are required to comply with the electronic reporting requirements for performance test results on the effective date of the standard or upon startup, whichever is later. Current subpart MM and new subpart MMa affected sources are required to use the appropriate e-reporting template to comply with the electronic reporting requirements for compliance reports beginning 180 days after the EPA posts the final compliance reporting templates to CEDRI.

2. How the Final Revisions to the Electronic Reporting Requirement Differ From the Proposed Revisions

The EPA revised the proposed electronic reporting provisions for compliance reports in subparts MM and MMa due to the comments received. Sources are required to use the appropriate e-reporting template to comply with the electronic reporting requirements for compliance reports beginning 180 days instead of the proposed 90 days after the EPA posts the final compliance reporting templates to CEDRI. The electronic reporting templates were also revised according to the comments we received during the comment period and are available in the docket for this action.

3. Electronic Reporting Requirement Comments and Responses

Comment: One commenter requested that the EPA allow facilities that become subject to electronic reporting to submit the compliance report for both subpart MM and subpart MMa at least 180 days after the effective date of the rule, or once the reporting template has been available on the CEDRI website for 1-year, whichever date is later. According to the commenter the proposal stated that the EPA would require use of the

NSPS template once the template has been available on the CEDRI website for 90 days, but this language was not included in the proposed regulatory text.

Response: The EPA has revised the subpart MM and subpart MMa rule language to state that the reporting template must be used beginning 180 days after the effective date of the rule or once the reporting template has been available on the CEDRI website for 1-year, whichever date is later.

Comment: One commenter asserted that the use of electronic reporting is reasonable as a general matter, but that the proposed compliance templates, and regulatory language contain errors that must be corrected in the final rule. The EPA must correct the errors identified in the two proposed compliance templates and implement recommendations to make the templates more user-friendly.

Response: The EPA requested review and comment on the proposed templates and regulatory language, revised them according to the comments, and is providing the final versions in this rulemaking docket.

H. Test Methods

1. Proposed Test Methods

We are finalizing the proposed additional EPA test methods, voluntary consensus standards (VCS), alternative methods, and a guidance document in subpart MMa (87 FR 30157; May 18, 2022).

In addition to the EPA test methods listed in subpart MM (EPA Methods 1, 2, 3, 4, 24, and 25 of 40 CFR part 60, appendix A), we are finalizing the following EPA test methods in subpart MMa, as proposed:

- EPA Methods 1A, 2A, 2C, 2D, 2F, 2G, 3A, 3B, 18, and 25A of appendix A to 40 CFR part 60;
- EPA Methods 204, 204A, 204B, 204C, 204D, 204E, and 204F of appendix M to 40 CFR part 51; and
- EPA Method 311 of appendix A to 40 CFR part 63.

In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference (IBR) the following VCS and a guidance document described in the amendments to 40 CFR 60.17:

- ASME/ANSI PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]'' issued August 31, 1981, IBR approved for 40 CFR 60.396a(a)(3).
- ASTM D6093–97 (Reapproved 2016), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer,'' Approved December 1, 2016, IBR approved for 40 CFR 60.393a(g)(1).
- ASTM D2369–20, ''Standard Test Method for Volatile Content of Coatings,'' (Approved June 1, 2020), IBR approved for 40 CFR 60.393a(f)(1)(i).
- ASTM D2697–22, ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings,'' (Approved July 1, 2022), IBR approved for 40 CFR 60.393a(g)(1).
- EPA–453/R–08–002, ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer Surfacer and Topcoat Operations,'' September 2008, Office of Air Quality Planning and Standards (OAQPS), IBR approved for 40 CFR 60.393a(e), 60.393a(h), 60.395a(k)(3)(iii), 60.397a(e) introductory text, 60.397a (e)(2)–(4), and Appendix A to subpart MMa of Part 60 sections 2.1 and 2.2, 4.1 and 4.2.

We are also incorporating by reference the following alternative methods specific to automotive coatings described in the amendments to 40 CFR 60.17:

- ASTM D1475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products,'' Approved November 1, 2013, IBR approved for 40 CFR 60.393a(f)(2).
- ASTM D5965–02 (Reapproved 2013), ''Standard Test Methods for Specific Gravity of Coating Powders,'' Approved June 1, 2013, IBR approved for 40 CFR 60.393a(f)(2).
- ASTM D5066–91 (Reapproved 2017), ''Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis,'' Approved June 1, 2017, IBR approved for 40 CFR 60.393a(h).
- ASTM D5087–02 (Reapproved 2021), ''Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solvent-borne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement),'' Approved February 1, 2021, IBR approved for 40 CFR 60.397a(e) and appendix A to subpart MMa, section 2.1.
- ASTM D6266–00a (Reapproved 2017), ''Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement),'' Approved July 1, 2017, IBR approved for 60.397a(e).

In addition, the EPA is finalizing the addition of the ALDT panel testing procedure titled ''Determination of Capture Efficiency of Automobile and Light-Duty Truck Spray Booth Emissions From Solvent-borne Coatings Using Panel Testing'' as appendix A to subpart MMa of 40 CFR part 60.

2. How the Final Revisions to the Test Methods Differ From the Proposed Revisions

After considering the comments on the proposed revisions to the test methods, the EPA is finalizing the test methods, as proposed. However, based on ASTM revisions to 2 proposed test methods we are updating Methods ASTM D2369–20, ''Standard Test Method for Volatile Content of Coatings,'' (Approved June 1, 2020) and ASTM D2697–22, ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings,'' (Approved July 1, 2022) in the final rule.

3. Test Method Comment and Response

Comment: One commenter requested that the EPA allow the use of Conditional Test Method 042 (CTM–042), Use of Flame Ionization Detector-Methane Cutter Analysis Systems for VOC Compliance Testing of Bakeries, to identify the methane content, rather than EPA Method 18 during performance tests. The commenter noted that although CTM–042 was originally approved for VOC testing in bakeries, many state agencies allow it for other processes, as it allows evaluation in real time so that the company and agency can identify issues during the test. The commenter argued that recognizing a measurement issue during the test benefits both the permittee and the agency, as costly and time-consuming re-testing can often be avoided. The commenter also noted that the use of CTM–042 reduces the risk of damaged sample bags or lab error that would require additional test runs after the tests have been completed and the test crews have left the site.

Response: The EPA is not revising the proposed test methods to allow the use of CTM–042 for measuring methane in ALDT surface coating emissions and does not support the use of CTM–042 for ALDT sources. The EPA acknowledges that although measuring VOC using EPA Method 25A and then subtracting EPA Method 18 methane results to measure nonmethane organic compounds (NMOC) is viewed by some as difficult, we are making this decision because use of CTM–042 is limited to bakery emissions in which ethanol is the predominant non-methane organic species in those emissions. CTM–042 calibrates the non-methane channel with ethanol, so it is simple to do a direct subtraction of the instrument calibrated for just methane and ethanol.

For application to the ALDT emission sources and many other emission source types in general, choosing the right calibration gas to measure methane and non-methane compounds will be an issue, because NMOC can be composed of a variety of compounds with different combustion temperatures depending on the emission source. It is also important to note that source owners and operators are not limited to the use of bags for EPA Method 18 samples. EPA Method 18 can be performed on site by direct real-time gas chromatography (GC) analysis to determine the methane concentration rather than by choosing the EPA Method 18 bag sample option. The real-time GC analysis of methane emissions using EPA Method 18 would address issues of timely feedback on emissions and the risks of bag damage or lab error raised by the commenters.

Comment: One commenter requested that the EPA allow performance testing to continue to be reported ''as propane'' or ''as methane'' as the basis for compliance. The commenter stated that a potential concern is that most historic test reports are not conducted for NSPS purposes, but for BACT or RACT purposes, and would be presented as VOC ''as propane,'' while the new reports performed for NSPS would be ''as carbon.'' The commenter stated that permit limits or other items based on the VOC concentration on a propane basis would not necessarily be the same as on a carbon basis, and that this difference would require duplicative tests or calculations to demonstrate compliance with VOC concentration limits. Additionally, the commenter stated, test results as carbon would be inconsistent from previous tests and would not allow the company or agency to observe testing in real time to review results to identify concerns.

Response: Subpart MM requires compliance calculations to include the concentration of VOC (as carbon) in units of parts per million by volume (ppmv). Similarly, the new subpart MMa requires compliance calculations to include the concentration of VOC (as carbon) in units of ppmv as the basis for compliance, so the NSPS performance testing requirements have not changed as a result of this rulemaking, contrary to the comment received. Subpart MMa requires VOC concentrations to be measured by following the procedures in EPA Method 25A.[3] Review of RTO destruction efficiency performance tests included in the docket for this rulemaking show that ALDT plants are measuring VOC concentrations using the procedures found in EPA Method 25A using on-line (real time) total hydrocarbon (THC) gas analyzers. The THC gas analyzer directs the sample to a flame ionization detector (FID) where the hydrocarbons present in the sample are ionized into carbon. The concentration determined by the analyzer is based on the calibration gas used, typically either methane or propane. Section 12.1 of EPA Method 25A explicitly outlines the procedures for calculating the concentration as carbon, which is as simple as a 1:1 ratio for methane and a 3:1 ratio for propane. No duplicative tests are required, and the conversion to units of carbon does not inhibit real-time assessment of compliance. Therefore, the EPA is finalizing the compliance calculations, as proposed.

I. Other Final Amendments

The EPA is promulgating a final amendment in response to a comment to modify the definition of ''flash-off area'' in subparts MM and MMa to include the flash-off areas located between spray booths. The ''flash-off area'' in subpart MM and proposed subpart MMa are defined as ''the structure on automobile and light-duty truck assembly lines between the coating application system (dip tank or spray booth) and the bake oven.'' The EPA is revising this definition in the final rules to include: ''Flash off area also means the structure between spray booths in a wet-on-wet coating process in which some of the solvent evaporates before the next spray booth; the flash off area may be ambient temperature or heated to accelerate evaporation.'' Additional detail on the EPA response to this comment is provided in the document titled, *Summary of Public Comments and Responses on Proposed Rule: New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations (40 CFR part 60, subpart MM) Best System of Emission Reduction Review, Final Amendments,* Docket ID No. EPA–HQ–OAR–2021–0664.

In addition, the EPA is finalizing minor corrections and edits to the subpart MM and MMa equations and rule text to provide clarity as described in the summary of public comments and responses document identified above.

J. Effective Date and Compliance Dates

Pursuant to CAA section 111(b)(1)(B), the effective date of the final rule requirements in subpart MM and subpart MMa will be the promulgation date. Affected sources that commence construction, reconstruction, or modification after May 18, 2022, must comply with all requirements of 40 CFR part 60, subpart MMa no later than the effective date of the final rule or upon startup, whichever is later, except for the electronic reporting of compliance reports. For electronic reporting of quarterly and semiannual compliance reports, subpart MM and MMa affected sources are required to use the appropriate electronic template to submit information to CEDRI. The electronic templates are available in the docket for this final action. Both templates were revised according to comments the EPA received during the comment period. Subpart MM and MMa affected sources are required to use the templates to electronically submit compliance reports 180 days after the EPA posts the final templates to CEDRI.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the air quality impacts?

The final ALDT NSPS subpart MMa would achieve an annual average VOC emission reduction of 331 tpy reduction of allowable VOC emissions per facility compared to that of the current NSPS subpart MM. Over the first 8 years after the rule is final, we expect an average of 2 new, reconstructed, or modified facilities per year, or 16 new affected facilities. We estimate a total VOC emission reduction of 4,160 tpy in the eighth year after the rule is final, compared to the current NSPS subpart MM.

We estimate the increased usage of electricity and natural gas would result in an increase in the average production of 4,474 metric tons of carbon dioxide equivalents ($mtCO_2e$) per year per facility. We estimate a total GHG emission production of 71,584 $mtCO_2e$ in the eighth year after the rule is final.

In this action, we are not evaluating the environmental impacts of other pollutants such as hydrocarbons (other than VOC), GHG, nitrogen oxides, and carbon monoxide emitted by control devices due to the combustion of natural gas as fuel or from the generation of electricity.

B. What are the energy impacts?

The energy impacts associated with the electricity and natural gas consumption associated with the operation of control devices to meet the final NSPS subpart MMa include an estimated average electricity consumption of 2.54 million kilowatt hours (kwh) per year per facility and an estimated average natural gas consumption of 48.8 million standard cubic feet (scf) per year per facility compared to that of the current NSPS

[3] See *https://www.epa.gov/sites/default/files/2017-08/documents/method_25a.pdf.*

subpart MM. Over the first 8 years after the rule is final, we expect an average of 2 new, reconstructed, or modified facilities per year, or 16 new affected facilities. We estimate a total electricity consumption of 40.6 million kwh and a total natural gas consumption of 780.8 million scf in the eighth year after the rule is final, compared to the current NSPS subpart MM.

C. What are the cost impacts?

We estimate that the average capital cost of controls to comply with the NSPS subpart MMa will be $7.44 million per new facility, or $14.9 million per year for 2 new facilities in each year in the 8-year period after the rule is final.

We estimate that the average annual cost of controls to comply with the NSPS subpart MMa will be $1.97 million per year per facility, or $3.93 million for 2 new facilities in each year in the 8-year period after the rule is final. The total cumulative annual costs (including annualized capital costs and O&M costs) of complying with the rule in the eighth year after the rule is final would be $31.5 million.

We estimate that the average cost of the periodic testing of control devices once every 5 years to comply with subpart MMa will be $57,000 per facility, or $114,000 for 2 facilities in the fifth year after the rule is final.

For further information on the cost impacts for this action see the memorandum titled, *Final Cost and Environmental Impacts Memo for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category (40 CFR part 60, subpart MMa),* located in the docket for this action.

D. What are the economic impacts?

The EPA conducted an economic impact analysis (EIA) and small business screening assessment for this final action, as discussed in the proposal for this action and detailed in the memorandum, *Economic Impact Analysis and Small Business Screening Assessment for Final Revisions and Amendments to the New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations,* which is available in the docket for this action. The economic impacts of this final action were estimated by comparing total annualized compliance costs to revenues at the ultimate parent company level. This is known as the cost-to-revenue or cost-to-sales test. This ratio provides a measure of the direct economic impact to ultimate parent owners of facilities while presuming no impact on consumers. As discussed in the proposal for this action, we estimate that none of the ultimate parent owners potentially affected by this final action will incur total annualized costs of greater than 1 percent of their revenues if they modify or reconstruct the relevant portions of their facility and become subject to the requirements of this final rule (87 FR 30155, May 18, 2022).

Since proposal, the 1 existing facility that was owned by a small entity was sold to a company in May 2022 that is not a small entity. Because the coatings processes are large operations at automobile and light duty truck manufacturing facilities, it is not anticipated that any affected facilities that have completed their initial startup phase would be classified as small entities. Therefore, no economic impacts are expected for small entities. Furthermore, it was assumed that any new entrant into the industry would have sales similar to at least the smallest current ultimate owner, so it is not anticipated that any new ultimate owner would face costs of greater than 1 percent of sales.

Therefore, the economic impacts are anticipated to be low for affected companies and the industries impacted by this final action, and there will not be substantial impacts on the markets for affected products. The costs of this final action are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

As described earlier in this preamble, the final NSPS subpart MMa would result in lower VOC emissions compared to the existing NSPS subpart MM. The new NSPS subpart MMa would also require that the standards apply at all times, which includes SSM periods. We are also promulgating several compliance assurance requirements which will ensure compliance with the new NSPS subpart MMa and help prevent noncompliant emissions of VOC. Furthermore, the final requirements in the new NSPS subpart MMa to submit reports and test results electronically will improve monitoring, compliance, and implementation of the rule.

F. What analysis of environmental justice did we conduct?

Consistent with the EPA's commitment to integrating environmental justice in the Agency's actions, and following the directives set forth in multiple Executive Orders as well as CAA section 111(b)(1)(B), the Agency has carefully evaluated the impacts of this action on communities with environmental justice concerns. This action finalizes standards of performance for new, modified, and reconstructed ALDT surface coating sources that commence construction after May 18, 2022. In general, the locations of the new, modified, and reconstructed ALDT surface coating facilities are not known. However, since proposal, we became aware of 3 ALDT surface coating facilities for which construction permits were recently issued or were about to be issued. We have evaluated the demographics of the populations living within 5 kilometers (km) and 50 km of these 3 new facilities as examples of new facility locations. We also evaluated the demographics of the populations living within 5 km and 50 km of 46 ALDT plants. The 46 ALDT plants include the 44 existing ALDT plants and two additional ALDT plants for which we had locational data.

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms—specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629; February 16, 1994). Additionally, Executive Order 13985 is intended to advance racial equity and support underserved communities through Federal government actions (86 FR 7009; January 20, 2021). The EPA defines EJ as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [4] The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

A demographic analysis was conducted for 3 new ALDT plants, which we identified after proposal and anticipate will be subject to the requirements of subpart MMa once in operation. The demographic analysis shows that within 5 km of these new

[4] See *https://www.epa.gov/environmentaljustice.*

facilities, the percent of the population that is African American is significantly higher than the national average (17 percent versus 12 percent). The percent of the population within 5 km that is Hispanic/Latino is significantly higher than the national average (51 percent versus 19 percent). The percent of people within 5 km that are over 25 without a high school diploma is also higher than the national average (28 percent versus 12 percent).

A demographic analysis was conducted for 46 existing ALDT plants to characterize the demographics in areas where the plants are currently located. These represent ALDT plants that might modify or reconstruct in the future and become subject to the NSPS MMa requirements. This analysis was presented in the proposal and remains unchanged. The demographic analysis shows that, within 5 km of the ALDT facilities, the percent of the population that is African American is significantly higher than the national average (27 percent versus 12 percent). The percent of people within 5 km living below the poverty level is significantly higher than the national average (22 percent versus 13 percent). The percent of people living within 5 km that are over 25 without a high school diploma is also higher than the national average (15 percent versus 12 percent).

The EPA particularly noted community impacts and concerns in some areas of the country that have a larger percentage of sources. A large percentage of the sources in the Auto and Light Duty Truck Surface Coating source category are in EPA Region 5 states and, of those states, most sources are in the state of Michigan. Most if not all the counties where these sources are located are designated as ozone nonattainment areas. For this reason, we engaged with EPA Region 5 and the state of Michigan as part of this rulemaking.

The EPA expects that this ALDT NSPS review will result in significant reductions of VOC emissions from the affected sources. The new emission limits finalized for this action reflect the best system of emission reduction demonstrated and establish new more stringent standards of performance for the primary sources of VOC emissions from the source category. The EPA expects that the finalized requirements in subpart MMa will result in significant reductions of VOC emissions for communities surrounding new, modified, and reconstructed affected sources compared to the existing rule in subpart MM and will result in lower VOC emissions for communities located in areas designated as ozone non-attainment areas. These areas are already overburdened by pollution and are often minority, low-income, and indigenous communities. The methodology and the results (including facility-specific results and the 50 km proximity results) of the demographic analysis are presented in a technical report titled, *Analysis of Demographic Factors for Populations Living Near Automobile and Light-Duty Truck Surface Coating NSPS Source Category Operations—Final Rule,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0664).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This final action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this action have been submitted for approval to OMB under the PRA.

The Information Collection Request (ICR) document that the EPA prepared for subpart MM has been assigned EPA ICR number 1064.20 and OMB control number 2060–0034. The ICR document that the EPA prepared for subpart MMa has been assigned EPA ICR number 2714.01 and OMB control number 2060–0034. You can find a copy of the final ICR documents in the ALDT NSPS Docket No. EPA–HQ–OAR–2021–0664, and they are briefly summarized here. The final ICR documents were updated to reflect 2021 labor costs. The information collection requirements are not enforceable until OMB approves them.

Each ICR is specific to information collection associated with the ALDT surface coating source category, in accordance with the requirements in the revised 40 CFR part 60, subpart MM or the new 40 CFR part 60, subpart MMa.

For the revised 40 CFR part 60, subpart MM, as part of the ALDT NSPS review, the EPA is finalizing the proposed requirement for the electronic submittal of reports.

Respondents/affected entities: The respondents to the recordkeeping and reporting requirements are owners and operators of ALDT surface coating operations subject to 40 CFR part 60, subpart MM.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart MM).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 44 respondents per year will be subject to the NSPS and no new respondents will be subject to the NSPS (40 CFR part 60, subpart MM).

Frequency of response: The frequency of responses varies depending on the burden item. Responses include a one-time review of rule requirements, reports of performance tests, and semiannual excess emissions and continuous monitoring system performance reports.

Total estimated burden: The average annual recordkeeping and reporting burden for the 44 responding facilities to comply with the requirements in subpart MM over the 3 years after the rule is final is estimated to be 506 hours (per year). The average annual burden to the Agency over the 3 years after the rule is final is estimated to be 152 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the ALDT facilities is $47,200 in labor costs in the first 3 years after the rule is final. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be $7,800.

For the new 40 CFR part 60, subpart MMa, as part of the ALDT NSPS review, the EPA is finalizing the proposed emission limits and other requirements as described in this preamble for affected sources that commence construction, reconstruction, or modification after May 18, 2022. We are also finalizing the proposed testing, recordkeeping, and reporting requirements for 40 CFR part 60, subpart MMa, including the performance testing of control devices once every 5 years and electronic submittal of performance test results and compliance reports. This information is being collected to assure compliance with 40 CFR part 60, subpart MMa.

Respondents/affected entities: The respondents to the recordkeeping and reporting requirements are owners and operators of ALDT surface coating operations subject to 40 CFR part 60, subpart MMa.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart MMa).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 6 respondents per

year will be subject to the NSPS (40 CFR part 60, subpart MMa).

Frequency of response: The frequency of responses varies depending on the burden item. Responses include one-time review of rule requirements, reports of performance tests, and semiannual excess emissions and continuous monitoring system performance reports.

Total estimated burden: The average annual recordkeeping and reporting burden for the 6 responding facilities to comply with all the requirements in the new NSPS subpart MMa over the 3 years after the rule is final is estimated to be 1,663 hours (per year). The average annual burden to the Agency over the 3 years after the rule is final is estimated to be 207 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the ALDT facilities is $155,000 in labor costs in the first 3 years after the rule is final. The average annual capital and operation and maintenance (O&M) cost is $151,000 in the first 3 years after the rule is final. The total average annual cost is $306,000 in the first 3 years after the rule is final. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be $10,600.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities because there are no regulated facilities owned by small entities. Details of the analysis in support of this determination are presented in the memorandum titled, *Economic Impact Analysis and Small Business Screening Assessment for Final Revisions and Amendments to the New Source Performance Standards for Automobile and Light Duty Truck Surface Coating Operations,* which is available in the docket for this action.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law, and it does not have substantial direct effects on the relationship between the Federal government and Indian Tribes or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175 (65 FR 67249; November 9, 2000). No tribal facilities are known to be engaged in the industry that would be affected by this action nor are there any adverse health or environmental effects from this action. However, the EPA conducted a proximity analysis for this source category and found that 6 ALDT plants are located within 50 miles of tribal lands. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA offered consultation with tribal officials during the development of this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not anticipate the environmental health or safety risks addressed by this action present a disproportionate risk to children. No health or risk assessments were performed for this action. As described in section IV.E of this preamble, the EPA estimates a reduction in VOC emissions from the ALDT NSPS subpart MMa for sources affected by this action because the subpart MMa requirements are more stringent than the existing ALDT NSPS subpart MM requirements.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866. This action is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. Therefore, the EPA conducted searches through the Enhanced National Standards System Network Database managed by the American National Standards Institute (ANSI) to determine if there are VCS that are relevant to this action. The Agency also contacted VCS organizations and accessed and searched their databases.

During the search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA considered it as a potential equivalent method. All potential standards were reviewed to determine the practicality of the VCS for this rule. This review requires significant method validation data which meets the requirements of the EPA Method 301 for accepting alternative methods or scientific, engineering and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS. As a result, the EPA is amending 40 CFR 60.17 to incorporate by reference (IBR) the following proposed VCS for subpart MMa:

• ASME/ANSI PTC 19.10–1981, ''Flue and Exhaust Gas Analyses.'' This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. The manual procedures (but not instrumental procedures) of ASME/ANSI PTC 19.10–1981–Part 10 may be used as an alternative to EPA Method 3B for measuring the oxygen or carbon dioxide content of the exhaust gas. The gases covered in ASME/ANSI PTC 19.10–1981 are oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons. However, the use in this

rule is only applicable to oxygen and carbon dioxide and is an acceptable alternative to the manual portion only and not the instrumental portion.

- ASTM D6093–97 (Reapproved 2016), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer.'' This test method can be used to determine the percent volume of nonvolatile matter in clear and pigmented coatings and is an alternative to EPA Method 24.
- ASTM D2369–20 (Approved June 1, 2020), ''Standard Test Method for Volatile Content of Coatings.'' This test method allows for more accurate results for multi-component chemical resistant coatings and is an alternative to EPA Method 24.
- ASTM D2697–22 (Approved July 1, 2022), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings.'' This test method can be used to determine the volume of nonvolatile matter in clear and pigmented coatings and is an alternative to EPA Method 24.
- EPA–453/R–08–002, ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations,'' September 2008. This protocol provides guidelines for combining analytical VOC content and formulation solvent content as an alternative to EPA Method 24.

In addition to the VCS identified here, we are amending 40 CFR 60.17 to IBR the following ASTM methods that are specific to automotive coatings:

- ASTM D1475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products,'' Approved November 1, 2013. This test method can be used to determine the density of coatings and the updated version of the test method clarifies units of measure and reduces the number of determinations required.
- ASTM D5965–02 (Reapproved 2013), ''Standard Test Methods for Specific Gravity of Coating Powders.'' These test methods include Test Methods A and B that can be used to determine the specific gravity of coating powders. Test Method A can be used to test coating powders except for metallics. Test Method B provides greater precision than Test Method A, includes the use of helium pycnometry, and can be used for metallics.
- ASTM D5066–91 (Reapproved 2017) ''Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis.'' This test method includes procedures to determine the transfer efficiency under production conditions for in-plant spray-application of automotive coatings using a weight method. The transfer efficiency is calculated from the weight of the paint solids sprayed and the paint solids that are deposited on the painted part. An alternative approach is also included in the method.
- ASTM D5087–02 (Reapproved 2021), ''Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solvent-borne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement).'' This test method can be used to measure solvent loading for the heated flash off areas and bake ovens for waterborne coatings.
- ASTM D6266–00a (Reapproved 2017) ''Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement).'' This test method can be used to measure solvent loading for heated flash off areas and bake ovens for waterborne coatings.

In addition, we are adding the ALDT panel testing procedure titled ''Determination of Capture Efficiency of Automobile and Light-Duty Truck Spray Booth Emissions from Solvent-borne Coatings Using Panel Testing'' as appendix A to subpart MMa of 40 CFR part 60, as proposed.

In addition to the EPA test methods listed in subpart MM (EPA Methods 1, 2, 3, 4, 24, and 25 of 40 CFR part 60, appendix A), we are finalizing the following EPA methods in subpart MMa, as proposed:

- EPA Methods 1A, 2A, 2C, 2D, 2F, 2G, 3A, 3B, 18, and 25A of appendix A to 40 CFR part 60;
- EPA Methods 204, 204A, 204B, 204C, 204D, 204E, and 204F of appendix M to 40 CFR part 51; and
- EPA Method 311 of appendix A to 40 CFR part 63.

EPA–453/R–08–002 is available online at *https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-solvent-use-and-surface* (see Automobile and Light Duty Truck CTG) or through *https://www.regulations.gov* under EPA–HQ–OAR–2008–0413–0080.

ASME/ANSI PTC 19.10–1981 is available from the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016–5990, Telephone (800) 843–2763. See *https://www.asme.org.*

The ASTM standards are available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org.*

Additional information for the VCS search and determinations can be found in the memorandum titled, *Voluntary Consensus Standard Results for Review of Standards of Performance for Automobile and Light Duty Truck Surface Coating,* which is dated January 24, 2023, and is available in the docket for this action.

Under the general provisions at 40 CFR 60.8(b) and 60.13(i) of subpart A, a source may apply to the EPA to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or indigenous peoples) and low-income populations.

The EPA anticipates that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on people of color, low-income populations and/or indigenous peoples.

The EPA anticipates that this action is likely to reduce existing disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. As discussed in section IV.F of this preamble, we performed a demographic analysis for the ALDT surface coating source category, which is an assessment of the proximity of individual demographic groups living close to the facilities (within 50 km and within 5 km). We performed demographic analyses during proposal for 46 existing ALDT plants and after proposal for three new ALDT plants. The methodology and the results of the demographic analyses are presented in a technical report titled, *Analysis of Demographic Factors for Populations Living Near Automobile and Light-Duty Truck Surface Coating NSPS Source Category Operations—Final Rule,* available in the

docket for this action. The results of the demographic analysis for existing ALDT plants indicate that the following groups are above the national average: African Americans, People Living Below the Poverty Level, and People without a High School Diploma. For the new ALDT plants, the results of the demographic analysis indicate that the following groups are above the national average: African Americans, Hispanic/Latino, and People without a High School Diploma. We anticipate that the lower VOC emission limits finalized in this action for new, modified, or reconstructed ALDT surface coating sources that commence construction, reconstruction, or modification after May 18, 2022, will result in lower ambient concentrations of ground level ozone and increase compliance with the National Ambient Air Quality Standards for ozone.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 60 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Amend § 60.17 by:
■ a. Revising paragraph (g)(14);
■ b. Redesignating paragraphs (h)(186) through (218) as paragraphs (h)(191) through (223);
■ c. Redesignating paragraphs (h)(183) through (185) as paragraphs (h)(187) through (189);
■ d. Redesignating paragraph (h)(182) as paragraph (h)(184) and paragraph (h)(181) as paragraph (h)(186), respectively;
■ e. Redesignating paragraphs (h)(172) through (180) as paragraphs (h)(175) through (183);
■ f. Redesignating paragraphs (h)(60) through (171) as paragraphs (h)(61) through (172)
■ g. Adding new paragraph (h)(60);
■ h. Revising newly-designated paragraphs (h)(97) and (h)(110);
■ i. Adding new paragraphs (h)(173), (174), and (185);
■ j. Revising newly-designated paragraph (h)(186);
■ k. Adding new paragraph (h)(190);
■ l. Redesignating paragraphs (j)(1) through (4) as (j)(2) through (5); and
■ m. Adding a new paragraph (j)(1).

The revisions and additions read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(g) * * *

(14) ASME/ANSI PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], Issued August 31, 1981; IBR approved for §§ 60.56c(b); 60.63(f); 60.106(e); 60.104a(d), (h), (i), and (j); 60.105a(b), (d), (f), and (g); 60.106a(a); 60.107a(a), (c), and (d); tables 1 and 3 to subpart EEEE; tables 2 and 4 to subpart FFFF; table 2 to subpart JJJJ; §§ 60.285a(f); 60.396a(a); 60.2145(s) and (t); 60.2710(s) and (t); 60.2730(q); 60.4415(a); 60.4900(b); 60.5220(b); tables 1 and 2 to subpart LLLL; tables 2 and 3 to subpart MMMM; §§ 60.5406(c); 60.5406a(c); 60.5407a(g); 60.5413(b); 60.5413a(b); 60.5413a(d).

* * * * *

(h) * * *

(60) ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, Approved November 1, 2013; IBR approved for § 60.393a(f).

* * * * *

(97) ASTM D2369–20, Standard Test Method for Volatile Content of Coatings, Approved June 1, 2020; IBR approved for §§ 60.393a(f); 60.723(b); 60.724(a); 60.725(b); 60.723a(b); 60.724a(a); 60.725a(b).

* * * * *

(110) ASTM D2697–22, Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, Approved July 1, 2022; IBR approved for §§ 60.393a(g); 60.723(b); 60.724(a); 60.725(b); 60.723a(b); 60.724a(a); 60.725a(b).

* * * * *

(173) ASTM D5066–91, Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints—Weight Basis, Approved June 1, 2017; IBR approved for § 60.393a(h).

(174) ASTM D5087–02 (Reapproved 2021), Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solventborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement), Approved February 1, 2021; IBR approved for § 60.397a(e); appendix A to subpart MMa.

* * * * *

(185) ASTM D5965–02 (Reapproved 2013), Standard Test Methods for Specific Gravity of Coating Powders, Approved June 1, 2013; IBR approved for § 60.393a(f).

(186) ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, Approved December 1, 2016; IBR approved for §§ 60.393a(g); 60.723(b); 60.724(a); 60.725(b); 60.723a(b); 60.724a(a); 60.725a(b).

* * * * *

(190) ASTM D6266–00a (Reapproved 2017), Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released From Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement), Approved July 1, 2017; IBR approved for § 60.397a(e).

* * * * *

(j) * * *

(1) EPA–453/R–08–002, Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations, September 2008, Office of Air Quality Planning and Standards (OAQPS); IBR approved for §§ 60.393a(e) and (h); 60.395a(k); 60.397a(e); appendix A to subpart MMa.

* * * * *

Subpart MM—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After October 5, 1979, and On or Before May 18, 2022

■ 3. Revise the heading for subpart MM of part 60 to read as set forth above.

■ 4. Amend § 60.390 by revising paragraph (c) to read as follows:

§ 60.390 Applicability and designation of affected facility.

* * * * *

(c) The provisions of this subpart apply to any affected facility identified

in paragraph (a) of this section that begins construction, reconstruction, or modification after October 5, 1979, and on or before May 18, 2022.

■ 5. Amend § 60.391 in paragraph (a) by revising the definition of ''Flash-off area'' to read as follows:

§ 60.391 Definitions.

(a) * * *

Flash-off area means the structure on automobile and light-duty truck assembly lines between the coating application system (dip tank or spray booth) and the bake oven. *Flash-off area* also means the structure between spray booths in a wet-on-wet coating process in which some of the solvent evaporates before the next spray booth; the flash off area may be ambient temperature or heated to accelerate evaporation.

* * * * *

■ 6. Amend § 60.392 by revising the introductory text to read as follows:

§ 60.392 Standards for volatile organic compounds.

On and after the date on which the initial performance test required by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge into the atmosphere from any affected facility VOC emissions in excess of the limitations listed in paragraphs (a)(1) and (2) of this section. The emission limitations listed in paragraphs (a)(1) and (2) shall apply at all times, including periods of startup, shutdown and malfunction. As provided in § 60.11(f), this provision supersedes the exemptions for periods of startup, shutdown and malfunction in the general provisions in subpart A of this part.

* * * * *

■ 7. Amend § 60.393 by revising paragraph (c)(2)(ii)(A) to read as follows:

§ 60.393 Performance test and compliance provisions.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) Determine the fraction of total VOC which is emitted by an affected facility that enters the control device by using the following equation where ''n'' is the total number of stacks entering the control device and ''p'' is the total number of stacks not connected to the control device:

$$F = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi}}{\sum_{i=1}^{n} Q_{bi} C_{bi} + \sum_{k=1}^{p} Q_{fk} C_{fk}}$$

(*1*) In subsequent months, the owner or operator shall use the most recently determined capture fraction for the performance test.

(*2*) If the owner can justify to the Administrator's satisfaction that another method will give comparable results, the Administrator will approve its use on a case-by-case basis.

* * * * *

■ 8. Amend § 60.395 by revising paragraphs (a)(2), (b), and (c) introductory text and adding paragraphs (e) and (f) to read as follows:

§ 60.395 Reporting and recordkeeping requirements.

(a) * * *

(2) Where compliance is achieved through the use of incineration, the owner or operator shall include the following additional data in the control device initial performance test required by § 60.8(a) or subsequent performance tests at which destruction efficiency is determined: the combustion temperature (or the gas temperature upstream and downstream of the catalyst bed), the total mass of VOC per volume of applied coating solids before and after the incinerator, capture efficiency, the destruction efficiency of the incinerator used to attain compliance with the applicable emission limit specified in § 60.392 and a description of the method used to establish the fraction of VOC captured and sent to the control device.

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.392. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually. Where compliance is achieved through the use of a capture system and control device, the volume-weighted average after the control device should be reported.

(c) Where compliance with § 60.392 is achieved through the use of incineration, the owner or operator shall continuously record the incinerator combustion temperature during coating operations for thermal incineration or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration. The owner or operator shall submit a report at the frequency specified in § 60.7(c) and paragraph (e) of this section.

* * * * *

(e) The owner or operator shall submit the reports listed in paragraphs (b) and (c) of this section following the procedures specified in paragraphs (e)(1) through (3) of this section. In addition to the information required in paragraphs (b) and (c) of this section, owners or operators are required to report excess emissions and a monitoring systems performance report and a summary report to the Administrator according to § 60.7(c) and (d). Owners or operators are required by § 60.7(c) and (d) to report the date, time, cause, and duration of each exceedance of the applicable emission limit specified in § 60.392, any malfunction of the air pollution control equipment, and any periods during which the CMS or monitoring device is inoperative. For each failure, the report must include a list of the affected sources or equipment and a description of the method used to estimate the emissions.

(1) *Effective date.* On and after November 6, 2023, or once the reporting template has been available on the CEDRI website for 1-year, whichever date is later, owners or operators must use the appropriate spreadsheet template on the Compliance and Emissions Data Reporting Interface (CEDRI) website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date the reporting template for this subpart becomes available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method by which the report is submitted. Submit all reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to the owner or operator. Do not use CEDRI to submit information you claim as CBI. Any information submitted using CEDRI

cannot later be claimed CBI. If you claim CBI, submit the report following the procedure described in paragraph (f)(3) of this section. The same file with the CBI omitted must be submitted to CEDRI as described in paragraph (f)(3) of this section.

(2) *System outage.* Owner or operators that are required to submit a report electronically through CEDRI in the EPA's CDX, may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, owners or operators must meet the requirements outlined in paragraphs (e)(2)(i) through (vii) of this section.

(i) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(ii) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(iii) The outage may be planned or unplanned.

(iv) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(v) You must provide to the Administrator a written description identifying:

(A) The date(s) and time(s) when CDX or CEDRI was accessed, and the system was unavailable;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(C) A description of measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(vi) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(vii) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(3) *Force majeure.* Owner or operators that are required to submit a report electronically through CEDRI in the EPA's CDX, may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, Owner or operators must meet the requirements outlined in paragraphs (e)(1) through (5) of this section.

(i) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(ii) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(iii) You must provide to the Administrator:

(A) A written description of the force majeure event;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(C) A description of measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(iv) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(f) Where compliance is achieved through the use of incineration, the owner or operator shall submit control device performance test results at which destruction efficiency is determined for initial and subsequent performance tests according to paragraph (a) of this section within 60 days of completing each performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test.

(i) Submit the results of the performance test to the EPA via the CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).

(ii) The data must be submitted in a file format generated using the EPA's ERT. Alternatively, the owner or operator may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.

(i) The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(ii) Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) Confidential business information (CBI). Do not use CEDRI to submit information you claim as CBI. Any information submitted using CEDRI cannot later be claimed CBI. Under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. Owners or operators that assert a CBI claim for any information submitted under paragraph (f)(1) or (2) of this section, must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Owners or operators can submit CBI according to one of the two procedures in paragraph (f)(3)(i) or (ii) of this section. All CBI claims must be asserted at the time of submission.

(i) If sending CBI through the postal service, submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Owners or operators are required to mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Automobile and Light Duty Truck Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (f)(1) and (2) of this section.

(ii) The EPA preferred method for CBI submittal is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI

Office at the email address *oaqpscbi@epa.gov,* Attention: Automobile and Light Duty Truck Surface Coating Operations Sector Lead, and as described above, should be clearly identified as CBI. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, you may email *oaqpscbi@epa.gov* to request a file transfer link.

■ 9. Add subpart MMa to part 60 to read as follows:

Subpart MMa—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After May 18, 2022

Sec.

60.390a Applicability and designation of affected facility.
60.391a Definitions.
60.392a Standards for volatile organic compounds.
60.393a Performance test and compliance provisions.
60.394a Add-on control device operating limits and monitoring requirements.
60.395a Notifications, reports, and records.
60.396a Add-on control device destruction efficiency.
60.397a Emission capture system efficiency.
Table 1 to Subpart MMa of Part 60—Operating limits for capture systems and add-on control devices.
Appendix A to Subpart MMa of Part 60—Determination of capture efficiency of automobile and light-duty truck spray booth emissions from solvent-borne coatings using panel testing.

Subpart MMa—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After May 18, 2022

§ 60.390a Applicability and designation of affected facility.

(a) The provisions of this subpart apply to the following affected facilities in an automobile or light-duty truck assembly plant specified in paragraphs (a)(1) through (4) of this section:

(1) Each prime coat operation, each guide coat operation, and each topcoat operation.

(2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed.

(3) All manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials.

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.

(b) Exempted from the provisions of this subpart are operations used to coat plastic body components on separate coating lines. The attachment of plastic body parts to a metal body before the body is coated does not cause the metal body coating operation to be exempted.

(c) The provisions of this subpart apply to any affected facility identified in paragraph (a) of this section that begins construction, reconstruction, or modification after May 18, 2022.

(d) The following physical or operational changes are not, by themselves, considered modifications of existing facilities:

(1) Changes as a result of model year changeovers or switches to larger vehicles.

(2) Changes in the application of the coatings to increase coating film thickness.

§ 60.391a Definitions.

All terms used in this subpart that are not defined below have the meaning given to them in the Act and in subpart A of this part.

Applied coating solids means the volume of dried or cured coating solids which is deposited and remains on the surface of the automobile or light-duty truck body.

Automobile means a motor vehicle capable of carrying no more than 12 passengers.

Automobile and light-duty truck assembly plant means a facility that assembles automobiles or light-duty trucks, including coating facilities and processes.

Automobile and light-duty truck body means the exterior surface of an automobile or light-duty truck including hoods, fenders, cargo boxes, doors, and grill opening panels.

Bake oven means a device that uses heat to dry or cure coatings.

Electrodeposition (EDP) means a method of applying a prime coat by which the automobile or light-duty truck body is submerged in a tank filled with coating material and an electrical field is used to affect the deposition of the coating material on the body.

Electrostatic spray application means a spray application method that uses an electrical potential to increase the transfer efficiency of the coating solids. Electrostatic spray application can be used for prime coat, guide coat, or topcoat operations.

Flash-off area means the structure on automobile and light-duty truck assembly lines between the coating application system (dip tank or spray booth) and the bake oven. *Flash off area* also means the structure between spray booths in a wet-on-wet coating process in which some of the solvent evaporates before the next spray booth; the flash off area may be ambient temperature or heated to accelerate evaporation.

Guide coat operation means the guide coat spray booth, flash-off area, and bake oven(s) which are used to apply and dry or cure a surface coating between the prime coat and topcoat operation on the components of automobile and light-duty truck bodies.

Light-duty truck means any motor vehicle rated at 3,850 kilograms gross vehicle weight or less, designed mainly to transport property.

Plastic body means an automobile or light-duty truck body constructed of synthetic organic material.

Plastic body component means any component of an automobile or light-duty truck exterior surface constructed of synthetic organic material.

Prime coat operation means the prime coat spray booth or dip tank, flash-off area, and bake oven(s) which are used to apply and dry or cure the initial coating on components of automobile or light-duty truck bodies.

Purge or line purge means the coating material expelled from the spray system when clearing it.

Solvent-borne means a coating which contains five percent or less water by weight in its volatile fraction.

Spray application means a method of applying coatings by atomizing the coating material and directing the atomized material toward the part to be coated. Spray applications can be used for prime coat, guide coat, and topcoat operations.

Spray booth means a structure housing automatic or manual spray application equipment where prime coat, guide coat, or topcoat is applied to components of automobile or light-duty truck bodies.

Surface coating operation means any prime coat, guide coat, or topcoat operation on an automobile or light-duty truck surface coating line.

Topcoat operation means the topcoat spray booth(s), heated flash-off area, flash-off area, and bake oven(s) which are used to apply and dry or cure the final coating(s) on components of automobile and light-duty truck bodies.

Transfer efficiency means the ratio of the amount of coating solids transferred onto the surface of a part or product to the total amount of coating solids used.

VOC content means all volatile organic compounds that are in a coating expressed as kilograms of VOC per liter of coating solids.

Waterborne or water reducible means a coating which contains more than five weight percent water in its volatile fraction.

§ 60.392a Standards for volatile organic compounds.

You must comply with the requirements in paragraphs (a) through (h) of this section.

(a) *Emission limitations.* On and after the date on which the initial performance test required by § 60.8 is completed, you must not discharge or cause the discharge into the atmosphere from any affected facility VOC emissions in excess of the limits in paragraph (a)(1) through (4) of this section. The emission limitations listed in this paragraph (a) of this section shall apply at all times, including periods of startup, shutdown and malfunction. As provided in § 60.11(f), this provision supersedes the exemptions for periods of startup, shutdown and malfunction in the part 60 general provisions in subpart A to this part.

(1) For each EDP prime coat operation:

(i) 0.027 kilogram of VOC per liter of applied coating solids when R_T is 0.16 or greater.

(ii) $0.027 \times 350^{(0.160 - RT)}$ kg of VOC per liter of applied coating solids when RT is greater than or equal to 0.040 and less than 0.160.

(iii) When R_T is less than 0.040, there is no emission limit.

(2) 0.027 kilograms of VOC per liter of applied coating solids (0.23 pounds per gallon of applied coating solids) from each non-EDP prime coat operation.

(3) 0.35 kilograms of VOC per liter of applied coating solids (2.92 pounds per gallon of applied coating solids) from each guide coat operation.

(4) 0.42 kilograms of VOC per liter of applied coating solids (3.53 pounds per gallon of applied coating solids) from each topcoat operation.

(b) *Work practices for storage, mixing, and conveying.* You must develop and implement a work practice plan to minimize VOC emissions from the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, all coating operations for which emission limits are established under § 60.392a(a). The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All VOC-containing coatings, thinners, cleaning materials, and waste materials must be stored in closed containers.

(2) The risk of spills of VOC-containing coatings, thinners, cleaning materials, and waste materials must be minimized.

(3) VOC-containing coatings, thinners, cleaning materials, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels, other than day tanks equipped with continuous agitation systems, which contain VOC-containing coatings and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of VOC must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) *Work practices for cleaning and purging.* You must develop and implement a work practice plan to minimize VOC emissions from cleaning and from purging of equipment associated with all coating operations for which emission limits are established under paragraph (a) of this section.

(1) The plan shall, at a minimum, address each of the operations listed in paragraphs (c)(1)(i) through (viii) of this section in which you use VOC-containing materials or in which there is a potential for emission of VOC.

(i) The plan must address vehicle body wipe emissions through one or more of the techniques listed in paragraphs (c)(1)(i)(A) through (D) of this section, or an approved alternative.

(A) Use of solvent-moistened wipes.

(B) Keeping solvent containers closed when not in use.

(C) Keeping wipe disposal/recovery containers closed when not in use.

(D) Use of tack-wipes.

(ii) The plan must address coating line purging emissions through one or more of the techniques listed in paragraphs (c)(1)(ii)(A) through (D) of this section, or an approved alternative.

(A) Air/solvent push-out.

(B) Capture and reclaim or recovery of purge materials (excluding applicator nozzles/tips).

(C) Block painting to the maximum extent feasible.

(D) Use of low-VOC or no-VOC solvents for purge.

(iii) The plan must address emissions from flushing of coating systems through one or more of the techniques listed in paragraphs (c)(1)(iii)(A) through (D) of this section, or an approved alternative.

(A) Keeping solvent tanks closed.

(B) Recovering and recycling solvents.

(C) Keeping recovered/recycled solvent tanks closed.

(D) Use of low-VOC or no-VOC solvents.

(iv) The plan must address emissions from cleaning of spray booth grates through one or more of the techniques listed in paragraphs (c)(1)(iv)(A) through (E) of this section, or an approved alternative.

(A) Controlled burn-off.

(B) Rinsing with high-pressure water (in place).

(C) Rinsing with high-pressure water (off line).

(D) Use of spray-on masking or other type of liquid masking.

(E) Use of low-VOC or no-VOC content cleaners.

(v) The plan must address emissions from cleaning of spray booth walls through one or more of the techniques listed in paragraphs (c)(1)(v)(A) through (E) of this section, or an approved alternative.

(A) Use of masking materials (contact paper, plastic sheet, or other similar type of material).

(B) Use of spray-on masking.

(C) Use of rags and manual wipes instead of spray application when cleaning walls.

(D) Use of low-VOC or no-VOC content cleaners.

(E) Controlled access to cleaning solvents.

(vi) The plan must address emissions from cleaning of spray booth equipment through one or more of the techniques listed in paragraphs (c)(1)(vi)(A) through (E) of this section, or an approved alternative.

(A) Use of covers on equipment (disposable or reusable).

(B) Use of parts cleaners (off-line submersion cleaning).

(C) Use of spray-on masking or other protective coatings.

(D) Use of low-VOC or no-VOC content cleaners.

(E) Controlled access to cleaning solvents.

(vii) The plan must address emissions from cleaning of external spray booth areas through one or more of the techniques listed in paragraphs (c)(1)(vii)(A) through (F) of this section, or an approved alternative.

(A) Use of removable floor coverings (paper, foil, plastic, or similar type of material).

(B) Use of manual and/or mechanical scrubbers, rags, or wipes instead of spray application.

(C) Use of shoe cleaners to eliminate coating track-out from spray booths.

(D) Use of booties or shoe wraps.

(E) Use of low-VOC or no-VOC content cleaners.

(F) Controlled access to cleaning solvents.

(viii) The plan must address emissions from housekeeping measures not addressed in paragraphs (c)(1)(i) through (vii) of this section through one or more of the techniques listed in

paragraphs (c)(1)(viii)(A) through (C) of this section, or an approved alternative.

(A) Keeping solvent-laden articles (cloths, paper, plastic, rags, wipes, and similar items) in covered containers when not in use.

(B) Storing new and used solvents in closed containers.

(C) Transferring of solvents in a manner to minimize the risk of spills.

(2) Notwithstanding the requirements of paragraphs (c)(1)(i) through (viii) of this section, if the type of coatings used in any facility with surface coating operations subject to the requirements of this section are of such a nature that the need for one or more of the practices specified under paragraphs (c)(1)(i) through (viii) of this section is eliminated, then the plan may include approved alternative or equivalent measures that are applicable or necessary during cleaning of storage, conveying, and application equipment.

(d) *Work practice plan revisions.* The work practice plans developed in accordance with paragraphs (b) and (c) of this section are not required to be incorporated in your title V permit. Any revisions to the work practice plans developed in accordance with paragraphs (b) and (c) of this section do not constitute revisions to your title V permit.

(e) *Work practice plan retention time.* Copies of the current work practice plans developed in accordance with paragraphs (b) and (c) of this section, as well as plans developed within the preceding 5 years must be available on-site for inspection and copying by the permitting authority.

(f) *Operating limits.* You are not required to meet any operating limits for any coating operation(s) without add-on controls, nor are you required to meet operating limits for any coating operation(s) that do not utilize emission capture systems and add-on controls to comply with the emission limits in § 60.392a(a).

(g) *Operating limits for operations with add-on controls.* Except as provided in paragraph (h) of this section, for any controlled coating operation(s), you must meet the operating limits specified in table 1 to this subpart. These operating limits apply to the emission capture and add-on control systems for affected sources in § 60.390a(a)(1), and you must establish the operating limits during performance tests according to the requirements in § 60.394a. You must meet the operating limits at all times after you establish them.

(h) *Alternative operating limits.* If you use an add-on control device other than those listed in table 1 to this subpart or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 60.13(i).

§ 60.393a Performance test and compliance provisions.

(a) *Representative conditions.* You must conduct performance tests under representative conditions for the affected coating operation according to § 60.8(c) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 60.8(b)(4).

(1) Operations during periods of startup, shutdown, or nonoperation do not constitute conditions representative of normal operation for purposes of conducting a performance test. You may not conduct performance tests during periods of malfunction. Emissions in excess of the applicable emission limit during periods of startup, shutdown, and malfunction will be considered a violation of the applicable emission limit.

(2) You must record the process information that is necessary to document operating conditions during the performance test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(3) Section 60.8(d) and (f) do not apply to the performance test procedures required by this section.

(b) *Initial and continuous compliance requirements.* You must conduct an initial performance test in accordance with § 60.8(a) and thereafter for each calendar month for each affected facility according to the procedures in this section. You must also conduct periodic performance tests of add-on controls, except for solvent recovery systems for which liquid-liquid material balances are conducted according to paragraph (l) of this section, to reestablish the operating limits required by § 60.392a within 5 years following the previous performance test. You must meet all the requirements of this section to demonstrate initial and continuous compliance.

(1) To demonstrate initial compliance, the VOC emissions from affected source must meet the applicable emission limitation in § 60.392a and the work practice standards in § 60.392a and the applicable operating limits in § 60.392a established during the initial performance test using the procedures in § 60.394a and table 1 to this subpart.

(i) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of this section. The initial compliance period begins on the applicable compliance date specified in § 60.8 and ends on the last day of the month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next month.

(ii) You must determine the mass of VOC emissions and volume of coating solids deposited in the initial compliance period. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 60.396a and 60.397a; supporting documentation showing that during the initial compliance period the VOC emission rate was equal to or less than the emission limit in § 60.392a; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 60.394a; and documentation of whether you developed and implemented the work practice plans required by § 60.392(b) and (c).

(2) To demonstrate continuous compliance with the applicable emission limit in § 60.392a, the VOC emission rate for each compliance period, determined according to the procedures in this section, must be equal to or less than the applicable emission limit in § 60.392a. A compliance period consists of 1 month. Each month after the end of the initial compliance period described in § 60.393a(b)(1)(i) is a compliance period consisting of that month. You must perform the calculations in this section on a monthly basis.

(3) If the VOC emission rate for any 1-month compliance period exceeded the applicable emission limit in § 60.392a, this is a deviation from the emission limitation for that compliance period and must be reported as specified in § 60.395a(h).

(c) *Compliance with operating limits.* Except as provided in paragraph (c)(1) of this section, you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 60.392a, using the procedures specified in § 60.394a.

(1) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 60.394a until after you have completed the initial

performance test specified in paragraph (b) of this section. During the period between the startup date of the affected source and the initial performance test required by § 60.8 you must maintain a log detailing the operation and maintenance of the emission capture system, the add-on control device, and the continuous monitoring system (CMS).

(2) You must demonstrate continuous compliance with each operating limit required by § 60.392a that applies to you, as specified in Table 1 to this subpart, and you must conduct performance tests as specified in paragraph (c)(4) of this section.

(3) If an operating parameter is out of the allowed range specified in table 1 to this subpart, this is a deviation from the operating limit that must be reported as specified in § 60.395a(h).

(4) If an operating parameter deviates from the operating limit specified in table 1 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation except as provided in § 60.393a (m).

(5) Except for solvent recovery systems for which you conduct liquid-liquid material balances according to paragraph (l) of this section for controlled coating operations, you must conduct periodic performance tests of add-on controls and reestablish the operating limits required by § 60.392a within 5 years following the previous performance test. You must conduct the first periodic performance test within 5 years following the initial performance test required by § 60.8. Thereafter, you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. If you are using the alternative monitoring option for a catalytic oxidizer according to § 60.394a(b)(3) and following the catalyst maintenance procedures in § 60.394a(b)(4), you are not required to conduct periodic control device performance testing as specified by this paragraph (c). For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph. The requirements of this paragraph do not apply to measuring emission capture system efficiency.

(6) You must meet the requirements for bypass lines in § 60.394a(h) for control devices other than solvent recovery systems for which you conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the coating operation is running, this is a deviation that must be reported as specified in § 60.395a(h). For the purposes of completing the compliance calculations specified in paragraph (j) of this section, you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation.

(d) *Compliance with work practice requirements.* You must develop, implement, and document implementation of the work practice plans required by § 60.392a(b) and (c) during the initial compliance period, as specified in § 60.395a.

(1) You must demonstrate continuous compliance with the work practice standards in § 60.392a (b) and (c). If you did not develop a work practice plan, if you did not implement the plan, or if you did not keep the records required by § 60.395a (k)(11), this is a deviation from the work practice standards that must be reported as specified in § 60.395a (k)(4).

(e) *Compliance with emission limits.* You must use the following procedures in paragraphs (f) through (m) of this section to determine the monthly volume weighted average mass of VOC emitted per volume of applied coating solids for each affected facility to demonstrate compliance with the applicable emission limitation in § 60.392a. You may also use the guidelines presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17) in making this demonstration.

(f) *Determine the mass fraction of VOC, density, and volume for each material used.* You must follow the procedures specified in paragraphs (f)(1) through (3) of this section to determine the mass fraction of VOC, the density, and volume for each coating and thinner used during each month. For the electrodeposition primer operation, the mass fraction of VOC, density, and volume used must be determined for each material added to the tank or system during each month.

(1) *Determine the mass fraction of VOC for each material used.* You must determine the mass fraction of VOC for each material used during the compliance period by using one of the options in paragraphs (f)(1)(i) through (iii) of this section.

(i) *EPA Method 24 (appendix A–7 to 40 CFR part 60).* For coatings, you may use EPA Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for the mass fraction of VOC. As an alternative to using EPA Method 24, you may use ASTM D2369–20 (incorporated by reference, see § 60.17). For Method 24, the coating sample must be a 1-liter sample taken in a 1-liter container.

(ii) *Alternative method.* You may use an alternative test method for determining the mass fraction of VOC once the Administrator has approved it. You must follow the procedure in § 60.8(b)(3) to submit an alternative test method for approval.

(iii) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (f)(1)(i) through (iii) of this section, such as manufacturer's formulation data. If there is a disagreement between such information and results of a test conducted according to paragraphs (f)(1)(i) through (iii) of this section, then the test method results will take precedence, unless after consultation, you demonstrate to the satisfaction of the enforcement authority that the facility's data are correct.

(2) *Determine the density of each material used.* Determine the density of each material used during the compliance period from test results using ASTM D1475–13 (incorporated by reference, see § 60.17) or for powder coatings, test method A or test method B of ASTM D5965–02 (Reapproved 2013) (incorporated by reference, see § 60.17), or information from the supplier or manufacturer of the material. If there is disagreement between ASTM D1475–13 test results or ASTM D5965–02 (Reapproved 2013), Test Method A or Test Method B test results and the supplier's or manufacturer's information, the test results will take precedence unless after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the supplier's or manufacturer's data are correct.

(3) *Determine the volume of each material used.* You must determine from company records on a monthly basis the volume of coating consumed, as received, and the mass of solvent used for thinning purposes.

(g) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids for each coating used during the compliance period by a test or by information provided by the supplier or the manufacturer of the material, as specified in paragraphs

(g)(1) and (2) of this section. For electrodeposition primer operations, the volume fraction of solids must be determined for each material added to the tank or system during each month. If test results obtained according to paragraph (g)(1) of this section do not agree with the information obtained under paragraph (g)(2) of this section, the test results will take precedence unless, after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

(1) *ASTM Method D2697–22 or ASTM Method D6093–97.* You may use ASTM D2697–22 (incorporated by reference, see § 60.17), or ASTM D6093–97 (incorporated by reference, see § 60.17), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

(2) *Information from the supplier or manufacturer of the material.* You may obtain the volume fraction of coating solids for each coating from the supplier or manufacturer.

(h) *Determine the transfer efficiency for each coating.* You must determine the transfer efficiency for each non-electrodeposition prime coat coating, each guide coat coating and each topcoat coating using ASTM Method D5066–91 (Reapproved 2017), ''Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints—Weight Basis'' (incorporated by reference, see § 60.17), or the guidelines presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, see § 60.17). You may conduct transfer efficiency testing on representative coatings and for representative spray booths as described in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, see § 60.17). You may assume 100 percent transfer efficiency for electrodeposition primer coatings.

(i) *Calculate the volume weighted average mass of VOC emitted per volume of applied coating solids before add-on controls.* (1) Calculate the mass of VOC used in each calendar month for each affected facility using Equation 1 of this section, where ''n'' is the total number of coatings used and ''m'' is the total number of VOC solvents used:

$$M_o + M_d = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi} + \sum_{j=1}^{m} L_{dj} D_{dj} \quad \text{(Eq.1)}$$

Where:

M_o = total mass of VOC in coatings as received (kilograms).
M_d = total mass of VOC in dilution solvent (kilograms).
L_{ci} = volume of each coating (i) consumed, as received (liters).
D_{ci} = density of each coating (i) as received (kilograms per liter).
W_{oi} = proportion of VOC by weight in each coating (i), as received.
L_{dj} = volume of each type VOC dilution solvent (j) added to the coatings, as received (liters).
D_{dj} = density of each type VOC dilution solvent (j) added to the coatings, as received (kilograms per liter).
[$\Sigma L_{dj} D_{dj}$ will be zero if no VOC solvent is added to the coatings, as received.]

(2) Calculate the total volume of coating solids used in each calendar month for each affected facility using Equation 2 of this section, where ''n'' is the total number of coatings used:

$$L_s = \sum_{i=1}^{n} L_{ci} V_{si} \quad \text{(Eq. 2)}$$

Where:

L_s = volume of solids in coatings consumed (liters).
L_{ci} = volume of each coating (i) consumed, as received (liters).
V_{si} = proportion of solids by volume in each coating (i) as received.

(3) Calculate the transfer efficiency (T) for each surface coating operation according to paragraph (h) of this section.

(i) When more than one application method (l) is used on an individual surface coating operation, you must perform an analysis to determine an average transfer efficiency using Equation 3 of this section, where ''n'' is the total number of coatings used and ''p'' is the total number of application methods:

$$T = \frac{\sum_{i=1}^{n} T_l V_{si} L_{cil}}{\sum_{l=1}^{p} L_s} \quad \text{(Eq. 3)}$$

Where:

T = overall transfer efficiency.
T_l = transfer efficiency for application method (l).
V_{si} = proportion of solids by volume in each coating (i) as received $\frac{liter\ solids}{liter\ coating}$, and
L_{cil} = Volume of each coating (i) consumed by each application method (l), as received (liters).
L_s = volume of solids in coatings consumed (liters).

(ii) [Reserved]

(4) Calculate the volume weighted average mass of VOC per volume of applied coating solids (G) during each calendar month for each affected facility using Equation 4 of this section:

$$G = \frac{M_o + M_d}{L_s T} \quad \text{(Eq. 4)}$$

Where:

G = volume weighted average mass of VOC per volume of applied solids (kilograms per liter).
M_o = total mass of VOC in coatings as received (kilograms).
M_d = total mass of VOC in dilution solvent (kilograms).
L_s = volume of solids in coatings consumed (liters).
T = overall transfer efficiency.

(5) Select the appropriate limit according to § 60.392a. If the volume weighted average mass of VOC per volume of applied coating solids (G), calculated on a calendar month basis, is less than or equal to the applicable emission limit specified in § 60.392a, the affected facility is in compliance. Each monthly calculation is a performance test for the purpose of this subpart.

(j) *Calculate the volume weighted average mass of VOC emitted per volume of applied coating solids after add-on controls.* You use the following procedures for each affected facility which uses a capture system and a control device that destroys VOC (*e.g.,* incinerator) to comply with the applicable emission limit specified under § 60.392a. Use the procedures in paragraph (j)(1) through (5) of this section to calculate volume weighted average mass of VOC per volume of applied coating solids for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating operation using a solvent recovery system for which you conduct a liquid-liquid material balance, you must use the procedures in paragraph (l) of this section.

(1) Calculate the volume weighted average mass of VOC per volume of applied coating solids (G) during each calendar month for each affected facility as described under § 60.393a(i)(4).

(2) Calculate the volume weighted average mass of VOC per volume of applied coating solids (N) emitted after the control device using Equation 5 of this section:

$$N = G[1 - CE * DRE] \quad \text{(Eq. 5)}$$

Where:
N = volume weighted average mass of VOC per volume of applied coating solids after the control device in units of kilograms of VOC per liter of applied coating solids.
G = volume weighted average mass of VOC per volume of applied coating solids (kilograms per liter).
CE = fraction of total VOC that is emitted by an affected facility that enters the control device.
DRE = VOC destruction or removal efficiency of the control device.

(3) You must use the procedures and test methods in section 60.397a to determine the emission capture system efficiency (CE) as part of the initial performance test.

(i) If you can justify to the Administrator's satisfaction that another method will give comparable results, the Administrator will approve its use on a case-by-case basis.

(ii) In subsequent months, you must use the most recently determined capture efficiency for the performance test.

(4) You must use the procedures and test methods in section 60.396a to determine the add-on control device emission destruction or removal efficiency as part of the initial performance test.

(i) In subsequent months, you must use the most recently determined VOC destruction efficiency for the performance test.

(ii) If two or more add-on control devices are used for the same emission stream, you must measure emissions at the outlet of each device in accordance with § 60.396a(c). If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions in accordance with § 60.396a(d). The emission destruction or removal efficiency of the add-on control device is the average of the efficiencies determined in the three test runs. The destruction or removal efficiency determined using these data shall be applied to each affected facility served by the control device.

(5) Calculate the mass of VOC for each affected facility each calendar month for each period of time in which a deviation, including a deviation during a period of startup, shutdown, or malfunction, from an emission limitation, an operating limit or any CMS requirement for the capture system or control device serving the controlled coating operation occurred. Except as provided in paragraph (m) of this section, for any period of time in which a deviation, including a deviation during a period of startup, shutdown, or malfunction, from an emission limitation or operating limit or from any CMS requirement of the capture system or control device serving the controlled coating operation occurred, you must assume zero efficiency for the emission capture system and add-on control device. During such a deviation you must assume the affected source was uncontrolled for the duration of the deviation using the equation in paragraph (i)(4) of this section.

(6) Adjust the volume weighted average mass of VOC per volume of applied coating solids emitted after the control device for each affected facility (N) during a calendar month for periods of deviation by adding the mass of VOC for the uncontrolled period of time according to paragraph (i)(5) of this section.

(7) If the adjusted volume weighted average mass of VOC per volume of applied solids emitted after the control device (N) calculated on a calendar month basis is less than or equal to the applicable emission limit specified in § 60.392a, the affected facility is in compliance. Each monthly calculation is a performance test for the purposes of this subpart.

(k) *Calculate the volume weighted average mass of VOC emitted per volume of applied coating solids after add-on recovery devices.* You must use the following procedures for each affected facility which uses a capture system and a control device that recovers the VOC (*e.g.,* carbon adsorber) other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the applicable emission limit specified under § 60.392a.

(1) Calculate the mass of VOC (M_o + M_d) used during each calendar month for each affected facility as described under paragraph (i) of this section.

(2) Calculate the total volume of coating solids (L_s) used in each calendar month for each affected facility as described under paragraph (i) of this section.

(3) Calculate the mass of VOC recovered (M_r) each calendar month for each affected facility by the following equation:

$M_r = L_r * D_r$

Where:
M_r = total mass of VOC recovered from an affected facility (kilograms).
L_r = volume of VOC recovered from an affected facility (liters).

D_r = density of VOC recovered from an affected facility (kilograms per liter).

(4) Calculate the volume weighted average mass of VOC per volume of applied coating solids emitted after the control device (N) during a calendar month using Equation 6 of this section:

$$N = \frac{M_o + M_d - M_r}{L_S T} \quad \text{(Eq. 6)}$$

Where:

N = volume weighted average mass of VOC per volume of applied coating solids after the control device in units of kilograms of VOC per liter of applied coating solids.

M_o = total mass of VOC in coatings as received (kilograms).

M_d = total mass of VOC in dilution solvent (kilograms).

M_r = total mass of VOC recovered from an affected facility (kilograms).

L_s = volume of solids in coatings consumed (liters).

T = overall transfer efficiency.

(5) Adjust the volume weighted average mass of VOC per volume of applied coating solids emitted after the recovery device for each affected facility (N) during a calendar month for periods of deviation by adding the mass of VOC for the uncontrolled periods of time according to paragraph (i)(6) of this section.

(6) If the adjusted volume weighted average mass of VOC per volume of applied solids emitted after the control device (N) calculated on a calendar month basis is less than or equal to the applicable emission limit specified in § 60.392a, the affected facility is in compliance. Each monthly calculation is a performance test for the purposes of this subpart.

(l) *Calculate the collection and recovery efficiency for solvent recovery systems using liquid-liquid material balances.* You must use the following procedures for each affected facility which uses a solvent recovery system for which you conduct liquid-liquid material balances to comply with the applicable emission limit specified under § 60.392a.

(1) Calculate the mass of VOC emission reduction for the coating operation controlled by the solvent recovery system using a liquid-liquid material balance for each affected facility by applying the volatile organic matter collection and recovery efficiency to the mass of VOC contained in the coatings and thinners used in the coating operation controlled by the solvent recovery system during each month. Perform a liquid-liquid material balance for each month as specified in paragraphs (l)(1) through (6) of this section.

(2) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system each month. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(3) For each solvent recovery system, determine the mass of volatile organic matter recovered for the month based on measurement with the device required in paragraphs (l)(l) and (2) of this section.

(4) For each affected facility, determine the mass of VOC (Mo + Md) of each coating and thinner controlled by the solvent recovery system for each calendar month using the equation in paragraph (i)(1) of this section.

(5) Calculate the solvent recovery system's volatile organic matter collection and recovery efficiency (R_V) for each affected facility using Equation 7 of this section:

$$R_V = 100\,\frac{M_{VR}}{\sum_{i=1}^{m} Vol_i D_i WV_{c,i} + \sum_{j=1}^{n} Vol_j D_j WV_{t,j}} \quad \text{(Eq. 7)}$$

Where:

R_V = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the month, percent.

M_{VR} = Mass of volatile organic matter recovered by the solvent recovery system during the month, kg.

Vol_i = Volume of coating, i, used in the coating operation controlled by the solvent recovery system during the month, liters.

D_i = Density of coating, i, kg per liter.

$WV_{c,\,i}$ = Mass fraction of volatile organic matter for coating, i, kg volatile organic matter per kg coating.

Vol_j = Volume of thinner, j, used in the coating operation controlled by the solvent recovery system during the month, liters.

D_j = Density of thinner, j, kg per liter.

$WV_{t,\,j}$ = Mass fraction of volatile organic matter for thinner, j, kg volatile organic matter per kg thinner.

m = Number of different coatings used in the coating operation controlled by the solvent recovery system during the month.

n = Number of different thinners used in the coating operation controlled by the solvent recovery system during the month.

(6) For each affected facility, you may apply the solvent recovery system's volatile organic matter collection and recovery efficiency to the mass of VOC for the coating operation controlled by the solvent recovery system for each calendar month.

(m) *Deviations.* You may request approval from the Administrator to use non-zero capture efficiencies and add-on control device efficiencies for any period of time in which a deviation, including a deviation during a period of startup, shutdown, or malfunction, from an emission limitation, operating limit or any CMS requirement for the capture system or add-on control device serving a controlled coating operation occurred.

(1) If you have manually collected parameter data indicating that a capture system or add-on control device was operating normally during a CMS malfunction, a CMS out-of-control period, or associated repair, then these data may be used to support and document your request to use the normal capture efficiency or add-on control device efficiency for that period of deviation.

(2) If you have data indicating the actual performance of a capture system or add-on control device (*e.g.,* capture efficiency measured at a reduced flow rate or add-on control device efficiency measured at a reduced thermal oxidizer temperature) during a deviation,

including a deviation during a period of startup, shutdown, or malfunction, from an emission limitation or operating limit or from any CMS requirement for the capture system or add-on control device serving a controlled coating operation, then these data may be used to support and document your request to use these values for that period of deviation.

(3) You may recalculate the adjusted volume weighted average mass of VOC emitted per volume of applied coating solids after add-on controls in paragraph (j)(6) of this section, and the adjusted volume weighted average mass of VOC per volume of applied coating solids emitted after the recovery device in paragraph (k)(4) of this section, based on Administrator approval of the non-zero capture efficiency and add-on control device efficiency values based on data provided in accordance with paragraphs (m)(1) and (2) of this section.

(n) *No deviations.* If there were no deviations from the emission limitations, submit a statement as part of the compliance report that you were in compliance with the emission limitations during the reporting period because the VOC emission rate for each compliance period was less than or equal to the applicable emission limit in § 60.392a, you achieved the operating limits required by § 60.394a, and you achieved the work practice standards required by § 60.392a during each compliance period.

(o) *Recordkeeping.* You must maintain records as specified in § 60.395a.

§ 60.394a Add-on control device operating limits and monitoring requirements.

During the performance tests required by § 60.393a, if you use an add-on control device(s) to comply with the emission limits specified under § 60.392a(a) through (c), you must establish add-on control device operating limits required by § 60.392a(h) according to this section, unless approval has been received for alternative monitoring under § 60.13(i) as specified in § 60.392a(h).

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limit according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use all valid data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum 3-hour average operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use all valid data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. The minimum 3-hour average operating limits for your catalytic oxidizer are the average temperature just before the catalyst bed maintained during the performance test of that catalytic oxidizer and 80 percent of the average temperature difference across the catalyst bed maintained during the performance test of that catalytic oxidizer, except during periods of low production, the latter minimum operating limit is to maintain a positive temperature gradient across the catalyst bed. A low production period is when production is less than 80 percent of production rate during the performance test of that catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use all valid data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.,* conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures. If problems are found during the catalyst activity test, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations.

(ii) Monthly external inspection of the catalytic oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found during the annual internal inspection of the catalyst, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations. If the catalyst bed is replaced and is not of like or better kind and quality as the old catalyst, and is not consistent with the manufacturer's recommendations, then you must conduct a new performance test to determine destruction efficiency according to § 60.396a. If a catalyst bed is replaced and the replacement catalyst is of like or better kind and quality as the old catalyst, and is consistent with the manufacturer's recommendations, then a new performance test to determine destruction efficiency is not required and you may continue to use the previously established operating limits for that catalytic oxidizer.

(c) *Regenerative carbon adsorbers.* If your add-on control device is a regenerative carbon adsorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your carbon adsorber are the minimum total desorbing gas mass flow recorded during the regeneration cycle and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at

least once every 15 minutes during each of the three test runs.

(2) Use all valid data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum 3-hour average operating limit for your condenser.

(e) *Concentrators.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (e)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the desorption gas inlet temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use all valid data collected during the performance test to calculate and record the average desorption gas inlet temperature. The minimum operating limit for the concentrator is 8 degrees Celsius (15 degrees Fahrenheit) below the average desorption gas inlet temperature maintained during the performance test for that concentrator. You must keep the set point for the desorption gas inlet temperature no lower than 6 degrees Celsius (10 degrees Fahrenheit) below the lower of that set point during the performance test for that concentrator and the average desorption gas inlet temperature maintained during the performance test for that concentrator.

(f) *Emission capture systems.* For each capture device that is not part of a permanent total enclosure (PTE) that meets the criteria of § 60.397a and that is not capturing emissions from a downdraft spray booth or from a flash-off area or bake oven associated with a downdraft spray booth, establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (f)(1) and (2) of this section. The operating limit for a PTE is specified in table 1 to this subpart.

(1) During the capture efficiency determination required by § 60.393a and described in § 60.397a, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device, using all valid data. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

(g) *Monitoring requirements.* If you use an add-on control device(s) to comply with the emission limits specified under § 60.392a(a) through (c), you must install, operate, and maintain each CMS specified in paragraphs (c), (e), (f), and (g) of this section according to paragraphs (g)(1) through (6) of this section. You must install, operate, and maintain each CMS specified in paragraphs (h) and (i) of this section according to paragraphs (g)(3) through (5) of this section.

(1) The CMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CMS.

(4) You must maintain the CMS at all times in accordance with § 60.11(d) and have readily available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating in accordance with § 60.11(d).

(6) Startups and shutdowns are normal operation for this source category. Emissions from these activities are to be included when determining if the standards specified in § 60.392a(a) through (c) are being attained. You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Except for periods of required quality assurance or control activities, any period during which the CMS fails to operate and record data continuously as required by paragraph (g)(1) of this section or generates data that cannot be included in calculating averages as specified in this paragraph (g)(7) constitutes a deviation from the monitoring requirements.

(h) *Capture system bypass line.* You must meet the requirements of paragraphs (h)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (h)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (nondiverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will

detect diversions of flow and shut down the coating operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 60.395a.

(i) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those used to treat desorbed concentrate streams from concentrators or carbon adsorbers), you must comply with the requirements in paragraphs (i)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, install a gas temperature monitor upstream of the catalyst bed. If you establish the operating parameters for a catalytic oxidizer under paragraphs (b)(1) through (3) of this section, you must also install a gas temperature monitor downstream of the catalyst bed. The temperature monitors must be in the gas stream immediately before and after the catalyst bed to measure the temperature difference across the bed. If you establish the operating parameters for a catalytic oxidizer under paragraphs (b)(4) through (6) of this section, you need not install a gas temperature monitor downstream of the catalyst bed.

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (g)(1) through (6) and (i)(3)(i) through (vii) of this section for each gas temperature monitoring device, unless approval has been received for alternative monitoring under § 60.13(i) as specified in § 60.392a(h). For the purposes of this paragraph (i)(3), a thermocouple is part of the temperature sensor.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) The gas temperature sensor must be capable of recording the temperature continuously. If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owner's manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

(j) *Regenerative carbon adsorbers.* If you are using a regenerative carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle and comply with paragraphs (g)(3) through (5) and (j)(1) and (2) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent, capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must have a measurement sensitivity of 1 percent of the temperature (as expressed in degrees Fahrenheit) recorded or 1 degree Fahrenheit, whichever is greater, and must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(k) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (g)(1) through (6) and (k)(1) and (2) of this section.

(1) The gas temperature monitor must have a measurement sensitivity of 1 percent of the temperature (expressed in degrees Fahrenheit) recorded or 1 degree Fahrenheit, whichever is greater.

(2) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(l) *Concentrators.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (g)(1) through (6) and (i)(3) of this section.

(m) *Emission capture systems.* The capture system monitoring system must comply with the applicable requirements in paragraphs (m)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (g)(1) through (6) and (m)(1)(i) through (iv) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (g)(1) through (6) and (m)(2)(i) through (vi) of this section.

(i) Locate the pressure tap(s) in a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Using an inclined manometer with a measurement sensitivity of 0.0002 inches of water, check gauge calibration quarterly and transducer calibration monthly.

(iv) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(v) At least monthly, inspect components for integrity, electrical connections for continuity, pressure taps for plugging and mechanical connections for leakage.

§ 60.395a Notifications, reports, and records.

(a) *Notifications.* You must submit all notifications in §§ 60.7, 60.8, and 60.13 that apply to you by the dates specified in those sections and in paragraphs (a)(1) through (5) of this section.

(1) A notification of the date construction (or reconstruction as defined under § 60.15) of an affected facility is commenced no later than 30 days after such date.

(2) A notification of the actual date of initial startup of an affected facility within 15 days after such date.

(3) A notification of any physical or operational change to an existing facility which may increase the VOC emission

rate within 60 days or as soon as practicable before the change is commenced.

(4) A notification of the date upon which demonstration of the CMS performance commences in accordance with § 60.13(c) not less than 30 days prior to such date.

(5) A notification of any performance test at least 30 days prior to afford the Administrator (or delegated State or local agency) the opportunity to have an observer present.

(b) *Initial performance test report.* If you use add-on control devices, you must submit reports of performance test results for emission capture systems and add-on control devices. Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, you are required to conduct performance test(s) and furnish the Administrator a report of the results of such performance test(s) in accordance with § 60.8(a). You are also required to conduct transfer efficiency test(s) and submit reports of the results of transfer efficiency tests and furnish the Administrator a report of the results of such transfer efficiency tests. The initial performance test report must include the information specified in § 60.8.

(c) *Subsequent performance test reports.* You must conduct periodic performance tests of add-on control devices in accordance with § 60.393a(b) within five years of the previous performance test and at such other times as may be required by the Administrator under section 114 of the Act in accordance with § 60.8(a). You must furnish the Administrator a written report of the results of such performance test(s) within 60 days of completing the performance test. Periodic testing of transfer efficiency and capture efficiency are not required.

(d) *Compliance reports.* Following the initial performance test, you must submit a quarterly or semiannual compliance report for each affected source required by § 60.8 according to the requirements of paragraphs (e) and (f) of this section. You must identify, record, and submit a report to the Administrator every calendar quarter each instance a deviation occurred from the emission limits, operating limits, or work practices in §§ 60.392a, 60.393a, and 60.394a, that apply to you. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually. For each affected source that is subject to 40 CFR part 70 or 71 permitting regulations and if the permitting authority has established dates for submitting semiannual compliance reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), you may submit the semiannual compliance reports according to the dates the permitting authority has established.

(e) *Initial compliance report.* You must include the data outlined in paragraphs (e)(1) and (2) of this section in the initial compliance report required by § 60.8 and the information required by pargraphs (f) through (h) of this section.

(1) The volume weighted average mass of VOC per volume of applied coating solids for each affected facility.

(2) Where compliance is achieved through the use of a capture or control device, include the following additional data in the initial performance test report required by § 60.8(a) specified in paragraphs (e)(2)(i) through (v) of this section:

(i) The data collected to establish the operating limits for the appropriate capture or control device required as by § 60.394a and table 1 to this subpart;

(ii) The total mass of VOC per volume of applied coating solids before and after the control device as required by § 60.396a;

(iii) The destruction efficiency of the control device used to attain compliance with the applicable emission limit specified in § 60.392a(a);

(iv) The capture efficiency as required by § 60.397a and a description of the method used to establish the capture efficiency for the affected facility; and

(v) The transfer efficiency test results and a description of the method used to establish the transfer efficiency for the affected facility.

(f) *Compliance report content.* Compliance reports must contain the information specified in paragraphs (f)(1) through (4) of this section and paragraph (g) that are applicable to your affected source.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) Identification of the affected source.

(g) *No deviations.* If there were no deviations from the emission limits, work practices, or operating limits in §§ 60.392a and 60.394a, that apply to you, the compliance report must include a statement that there were no deviations from the applicable emission limitations during the reporting period. If you used control devices to comply with the emission limits, and there were no periods during which the CMS were out of control as specified in § 60.394a(g) the compliance report must include a statement that there were no periods during which the CMS were out of control during the reporting period.

(h) *Deviations.* If there was a deviation from the applicable emission limits in § 60.392a or the applicable operating limit(s) in table 1 to this subpart or the work practice standards in § 60.392a, the compliance report must contain the information in paragraphs (h)(1) through (15) of this section.

(1) The beginning and ending dates of each month during which the volume-weighted average of the total mass of VOC emitted to the atmosphere per volume of applied coating solids (N) for the affected source exceeded the applicable emission limit in § 60.392a.

(2) The calculation used to determine the volume-weighted average of the total mass of VOC emitted to the atmosphere per volume of applied coating solids (N) in accordance with § 60.395a. You do not need to submit the background data supporting these calculations, for example information provided by materials suppliers or manufacturers, or test reports.

(3) The date and time that each malfunction of the capture system or add-on control devices used to control emissions from these operations started and stopped.

(4) A brief description of the CMS.

(5) The date of the latest CMS certification or audit.

(6) For each instance that the CMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CMS was inoperative; the cause (including unknown cause) for the CMS being inoperative; and descriptions of corrective actions taken.

(7) For each instance that the CMS was malfunctioning or out-of-control, as specified in § 60.394a(g)(6) or (7), the date, time, and duration that the CMS was malfunctioning or out-of-control; the cause (including unknown cause) for the CMS malfunctioning or being out-of-control; and descriptions of corrective actions taken.

(8) The date, time, and duration of each deviation from an operating limit in table 1 to this subpart; and the date, time, and duration of each bypass of an add-on control device.

(9) A summary of the total duration and the percent of the total source operating time of the deviations from each operating limit in table 1 to this subpart and the bypass of each add-on control device during the semiannual reporting period.

(10) A breakdown of the total duration of the deviations from each operating limit in Table 1 to this subpart and bypasses of each add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

(11) A summary of the total duration and the percent of the total source operating time of the downtime for each CMS during the semiannual reporting period.

(12) A description of any changes in the CMS, coating operation, emission capture system, or add-on control devices since the last semiannual reporting period.

(13) For deviations from the work practice standards, the number of deviations, and, for each deviation, the information in paragraphs (h)(13)(i) and (ii) of this section.

(i) A description of the deviation, the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 60.11(d).

(ii) A list of the affected sources or equipment for which a deviation occurred, the cause of the deviation (including unknown cause, if applicable), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(14) For deviations from an emission limitation in § 60.392a or operating limit in Table 1 of this subpart, a statement of the cause of each deviation (including unknown cause, if applicable).

(15) For each deviation from an emission limitation in § 60.392a, or operating limit in Table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of VOC emitted over any emission limit in § 60.392a, and a description of the method used to estimate the emissions.

(i) *Electronic reporting of performance test data.* Where compliance is achieved through the use of add-on control devices, the owner or operator shall submit control device performance test results for initial and subsequent performance tests according to paragraphs (b) and (c) of this section within 60 days of completing each performance test following the procedures specified in paragraphs (i)(1) through (3) of this section.

(1) *Supported test methods.* Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test.

(i) Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).

(ii) The data must be submitted in a file format generated using the EPA's ERT. Alternatively, the owner or operator may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Unsupported test methods.* Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.

(i) The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(ii) Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* Do not use CEDRI to submit information you claim as CBI. Any information submitted using CEDRI cannot later be claimed CBI. Under CAA section 114(c), emissions data are not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. Owners or operators that assert a CBI claim for any information submitted under paragraph (i)(1) or (i)(2) of this section, must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Owners or operators can submit CBI according to one of the two procedures in paragraph (i)(3)(i) or (ii) of this section. All CBI claims must be asserted at the time of submission.

(i) If sending CBI through the postal service, submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Owners or operators are required to mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Automobile and Light Duty Truck Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (i)(1) and (2) of this section.

(ii) The EPA preferred method for CBI submittal is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should be clearly identified as CBI and note Attention: Automobile and Light Duty Truck Surface Coating Operations Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, you can email *oaqpscbi@epa.gov* to request a file transfer link.

(j) *Electronic submittal of reports.* The owner or operator shall submit the reports listed in paragraphs (b) through (e) of this section following the procedures specified in paragraphs (j)(1) through (3) of this section. In addition to the information required in paragraphs (b) through (h) of this section, owners or operators are required to report excess emissions and a monitoring systems performance report and a summary report to the Administrator according to § 60.7(c) and (d). Owners or operators are required by § 60.7(c) and (d) to report the date, time, cause, and duration of each exceedance of the applicable emission limit specified in § 60.392a(a), any malfunction of the air pollution control equipment, and any periods during which the CMS or monitoring device is inoperative, malfunctioning, or out-of-control. For each failure, the report must include a list of the affected sources or equipment and a description of the method used to estimate the emissions.

(1) *Effective date.* On and after November 6, 2023, or once the reporting template has been available on the CEDRI website for 1-year, whichever date is later, owners or operators must use the appropriate spreadsheet template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date the reporting template for this subpart becomes available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method by which the report is submitted. Submit all reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to the owner or operator. Do not use CEDRI to submit information you claim as CBI.

Any information submitted using CEDRI cannot later be claimed CBI. If you claim CBI, submit the report following the procedure described in paragraph (i)(3) of this section. The same file with the CBI omitted must be submitted to CEDRI as described in this paragraph.

(2) *System outage.* Owner or operators that are required to submit a report electronically through CEDRI in the EPA's CDX, may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, owners or operators must meet the requirements outlined in paragraphs (e)(2)(i) through (vii) of this section.

(i) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(ii) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(iii) The outage may be planned or unplanned.

(iv) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(v) You must provide to the Administrator a written description identifying:

(A) The date(s) and time(s) when CDX or CEDRI was accessed, and the system was unavailable;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(C) A description of measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(vi) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(vii) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(3) *Force majeure.* Owner or operators that are required to submit a report electronically through CEDRI in the EPA's CDX, may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (j)(3)(i) through (iv) of this section.

(i) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(ii) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(iii) You must provide to the Administrator:

(A) A written description of the force majeure event;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(C) A description of measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(iv) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(k) *Recordkeeping.* You must collect and keep records of the data and information specified in paragraphs (k)(1) through (12) of this section. Failure to collect and keep these records is a deviation from the applicable standard.

(1) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report.

(2) A current copy of information provided by materials suppliers or manufacturers, such as manufacturer's formulation data, or test data used to determine the mass fraction of VOC, the density and the volume fraction of coating solids for each coating, and the mass fraction of VOC and the density for each thinner. If you conducted testing to determine mass fraction of VOC, density, or volume fraction of coating solids, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. If you use the results of an analysis conducted by an outside testing lab, you must keep a copy of the test report. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(3) For each month, the records specified in paragraphs (k)(3)(i) through (iii) of this section.

(i) For each coating used for the affected source, a record of the volume used in each month, the mass fraction VOC content, the density, and the volume fraction of solids.

(ii) For each thinner used in coating operations for the affected source, a record of the volume used in each month, the mass fraction VOC content, and the density.

(iii) A record of the calculation of the VOC emission rate for the affected source for each month. This record must include all raw data, algorithms, and intermediate calculations. If the guidelines presented in the ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, see § 60.17), are used, you must keep records of all data input to this protocol. If these data are maintained as electronic files, the electronic files, as well as any paper copies must be maintained. These data must be provided to the permitting authority on request on paper, and in (if calculations are done electronically) electronic form.

(4) For each deviation from an emission limitation, operating limit, or work practice plan reported under paragraph (h) of this section, a record of the information specified in paragraphs (4)(i) through (iv) of this section, as applicable.

(i) The date, time, and duration of the deviation, and for each deviation, the information as reported under paragraph (h) of this section.

(ii) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under paragraph (h) of this section.

(iii) An estimate of the quantity of VOC emitted over any applicable emission limit in § 60.392a or any applicable operating limit in Table 1 to

this subpart, and a description of the method used to calculate the estimate, as reported under paragraph (h) of this section.

(iv) A record of actions taken to minimize emissions in accordance with § 60.11(d) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(5) The records required by § 60.7(b) and (c) related to SSM.

(6) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 60.397a(a).

(7) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in § 60.397a(b) through (g), including the records specified in paragraphs (k)(7)(i) through (iv) of this section that apply to you.

(i) Records for a liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure. Records of the mass of total VOC, as measured by Method 204A or F of appendix M to 40 CFR part 51, for each material used in the coating operation, and the total VOC for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of VOC emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure. Records of the mass of VOC emissions captured by the emission capture system, as measured by Method 204B or C of appendix M to 40 CFR part 51, at the inlet to the add-on control device, including a copy of the test report. Records of the mass of VOC emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) Records for panel tests. Records needed to document a capture efficiency determination using a panel test as described in § 60.397a(e) and (g), including a copy of the test report and calculations performed to convert the panel test results to percent capture efficiency values.

(iv) Records for an alternative protocol. Records needed to document a capture efficiency determination using an alternative method or protocol, as specified in § 60.397a(f), if applicable.

(8) The records specified in paragraphs (k)(8)(i) and (ii) of this section for each add-on control device VOC destruction or removal efficiency determination as specified in § 60.393a.

(i) Records of each add-on control device performance test conducted according to § 60.393a.

(ii) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(9) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 60.394a and to document compliance with the operating limits as specified in table 1 to this subpart.

(10) Records of the data and calculations you used to determine the transfer efficiency for guide coat and topcoat coating operations pursuant to § 60.393a(h).

(11) A record of the work practice plans required by § 60.392a(b) and (c) and documentation that you are implementing the plans on a continuous basis. Appropriate documentation may include operational and maintenance records, records of documented inspections, and records of internal audits.

(12) For each add-on control device and for each CMS, a copy of the equipment operating instructions must be maintained on-site for the life of the equipment in a location readily available to plant operators and inspectors. You may prepare your own equipment operating instructions, or they may be provided to you by the equipment supplier or other third party.

(l) *Record form and retention time.* (1) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(2) Except as provided in paragraph (k)(12) of this section, you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(3) Except as provided in paragraph (k)(12) of this section, you must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record. You may keep the records off site for the remaining 3 years.

§ 60.396a Add-on control device destruction efficiency.

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 60.393a(j)(4), except as provided in § 60.8. You must conduct three test runs as specified in §§ 60.8(f) and 60.394a, and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods specified in paragraphs (a)(1) through (5) of this section.

(1) Use EPA Method 1 or 1A of appendix A–1 to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use EPA Method 2, 2A, 2C, 2D, or 2F of appendix A–1, or 2G of appendix A–2 to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use EPA Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. The ASME/ANSI PTC 19.10–1981 (incorporated by reference, *see* § 60.17), may be used as an alternative to EPA Method 3B.

(4) Use EPA Method 4 of appendix A–3 to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon in the effluent gas leaving each stack not equipped with a control device and at the inlet and outlet of the add-on control device simultaneously, using either EPA Method 25 or 25A of appendix A–7 to 40 CFR part 60, as specified in paragraphs (b)(1) through (4) of this section. You must use the same method

for both the inlet and outlet measurements.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million by volume (ppmv) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppmv or less at the control device outlet.

(3) Use Method 25A if the add-control device is not an oxidizer.

(4) You may use EPA Method 18 of appendix A–6 to 40 CFR part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

(5) For Method 25 and 25A, the sampling time for each of three runs must be at least one hour. The minimum sample volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator. The Administrator will approve the sampling of representative stacks on a case-by-case basis if you can demonstrate to the satisfaction of the Administrator that the testing of representative stacks would yield results comparable to those that would be obtained by testing all stacks.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet of each device. For example, if one add-on control device is a concentrator with an outlet for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high-volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates (M_f) for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions.

$$M_f = Q_{sd} C_c (12)(0.0416)(10^{-6}) \quad \text{(Eq. 1)}$$

Where:

M_f = Total gaseous organic emissions mass flow rate, kg per hour (kg/h).

C_c = Concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, ppmv, dry basis.

Q_{sd} = Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters per hour (dscm/h). 0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mol/m^3) (@293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency using Equation 2 of this section:

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} (100) \quad \text{(Eq. 2)}$$

Where:

DRE = Organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi} = Total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

M_{fo} = Total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 60.397a Emission capture system efficiency.

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 60.393a. For purposes of this subpart, a spray booth air seal is not considered a natural draft opening in a PTE or a temporary total enclosure provided you demonstrate that the direction of air movement across the interface between the spray booth air seal and the spray booth is into the spray booth. For purposes of this subpart, a bake oven air seal is not considered a natural draft opening in a PTE or a temporary total enclosure provided you demonstrate that the direction of air movement across the interface between the bake oven air seal and the bake oven is into the bake oven. You may use lightweight strips of fabric or paper, or smoke tubes to make such demonstrations as part of showing that your capture system is a PTE or conducting a capture efficiency test using a temporary total enclosure. You cannot count air flowing from a spray booth air seal into a spray booth as air flowing through a natural draft opening into a PTE or into a temporary total enclosure unless you elect to treat that spray booth air seal as a natural draft opening. You cannot count air flowing from a bake oven air seal into a bake oven as air flowing through a natural draft opening into a PTE or into a temporary total enclosure unless you elect to treat that bake oven air seal as a natural draft opening.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coatings and thinners used in the coating operation are applied within the capture system, and coating solvent flash-off and coating curing and drying occurs within the capture system. For example, this criterion is not met if parts enter the open shop environment when being moved between a spray booth and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the five procedures described in paragraphs (c) through (g) of this section to measure capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single part to go from the beginning to the end of production, which includes surface preparation activities and drying or curing time.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid VOC in materials used in the coating operation to the mass of VOC emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings and thinners are applied, and all areas where emissions from these applied coatings and thinners subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or F of appendix M to 40 CFR part 51 to determine the mass fraction of VOC liquid input from each coating and thinner used in the coating operation during each capture efficiency test run.

(3) Use Equation 1 of this section to calculate the total mass of VOC liquid input (VOC_{used}) from all the coatings and thinners used in the coating operation during each capture efficiency test run.

$$VOC_{used} = \sum_{i=1}^{n}(VOC_i)(Vol_i)(D_i) \quad \text{(Eq. 1)}$$

Where:

VOC_i = Mass fraction of VOC in coating or thinner, i, used in the coating operation during the capture efficiency test run, kg VOC per kg material.

Vol_i = Total volume of coating or thinner, i, used in the coating operation during the capture efficiency test run, liters.

D_i = Density of coating or thinner, i, kg material per liter material.

n = Number of different coatings and thinners used in the coating operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, kg, of VOC emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 2 of this section:

$$CE = \frac{(VOC_{used} - VOC_{uncaptured})}{VOC_{used}} \times 100 \quad \text{(Eq. 2)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

VOC_{used} = Total mass of VOC liquid input used in the coating operation during the capture efficiency test run, kg.

$VOC_{uncaptured}$ = Total mass of VOC that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of VOC emissions captured by the emission capture system to the mass of VOC emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings and thinners are applied, and all areas where emissions from these applied coatings and thinners subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions generated by the coating operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or C of appendix M to 40 CFR part 51 to measure the total mass, kg, of VOC emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device.

(i) The sampling points for the Method 204B or C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the

add-on control device must be simultaneously or sequentially measured in each duct, and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, kg, of VOC emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute VOC for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 3 of this section:

$$CE = \frac{VOC_{captured}}{(VOC_{captured} + VOC_{uncaptured})} \times 100 \quad \text{(Eq. 3)}$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$VOC_{captured}$ = Total mass of VOC captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

$VOC_{uncaptured}$ = Total mass of VOC that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Panel testing to determine the capture efficiency of flash-off or bake oven emissions.* You may conduct panel testing to determine the capture efficiency of flash-off or bake oven emissions using ASTM Method D5087–02 (Reapproved 2021), ''Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solventborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)'' (incorporated by reference, *see* § 60.17), ASTM Method D6266–00a (Reapproved 2017), ''Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)'' (incorporated by reference, *see* § 60.17), or the guidelines presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17). You may conduct panel testing on representative coatings as described in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17).

(1) Calculate the volume of coating solids deposited per volume of coating used for coating, i, or the composite volume of coating solids deposited per volume of coating used for the group of coatings including coating, i, used during the month in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted using Equation 4 of this section:

$$V_{sdep,i} = (V_{s,i})(TE_{c,i}) \quad \text{(Eq. 4)}$$

Where:

$V_{sdep,\ i}$ = Volume of coating solids deposited per volume of coating used for coating, i, or composite volume of coating solids deposited per volume of coating used for the group of coatings including coating, i, in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, liter of coating solids deposited per liter of coating used.

$V_{s,\ i}$ = Volume fraction of coating solids for coating, i, or average volume fraction of coating solids for the group of coatings including coating, i, liter coating solids per liter coating, determined according to § 60.393a(g).

$TE_{c,\ i}$ = Transfer efficiency of coating, i, or average transfer efficiency for the group of coatings including coating, i, in the spray booth(s) for the flash-off area or bake oven for which the panel test is conducted determined according to § 60.393a(h), expressed as a decimal, for example 60 percent must be expressed as 0.60. (Transfer efficiency also may be determined by testing representative coatings. The same coating groupings may be appropriate for both transfer efficiency testing and panel testing. In this case, all of the coatings in a panel test grouping would have the same transfer efficiency.)

(2) Calculate the mass of VOC per volume of coating for coating, i, or the composite mass of VOC per volume of coating for the group of coatings including coating, i, used during the month in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg, using Equation 5 of this section:

$$VOC_i = (D_{c,i})(Wvoc_{c,i}) \quad \text{(Eq. 5)}$$

Where:

VOC_i = Mass of VOC per volume of coating for coating, i, or composite mass of VOC per volume of coating for the group of coatings including coating, i, used during the month in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg VOC per liter coating.

$D_{c,i}$ = Density of coating, i, or average density of the group of coatings, including

coating, i, kg coating per liter coating, density determined according to § 60.393a(f)(2).

$Wvoc_{c,i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat, EPA–453/R–08–002'' (incorporated by reference, *see* § 60.17).

(3) As an alternative, you may choose to express the results of your panel tests in units of mass of VOC per mass of coating solids deposited and convert such results to a percent using Equation 7 of this section. If you panel test representative coatings, then you may convert the panel test result for each representative coating either to a unique percent capture efficiency for each coating grouped with that representative coating by using coating specific values for the mass of coating solids deposited per mass of coating used, mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section; or to a composite percent capture efficiency for the group of coatings by using composite values for the group of coatings for the mass of coating solids deposited per mass of coating used and average values for the mass of VOC per volume of coating, average values for the group of coatings for mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency for that coating by using coating specific values for the mass of coating solids deposited per mass of coating used, mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section. Panel test results expressed in units of mass of VOC per mass of coating solids deposited must be converted to percent capture efficiency using Equation 6 of this section:

$$CE_i = (P_{m,i})(W_{sdep,i})(100)/(Wvoc_{c,i}) \quad \text{(Eq.6)}$$

Where:

CE_i = Capture efficiency for coating, i, or for the group of coatings including coating, i, for the flash-off area or bake oven for which the panel test is conducted, percent.

$P_{m,i}$ = Panel test result for coating, i, or for the coating representing coating, i, in the panel test, kg of VOC per kg of coating solids deposited.

$W_{sdep,i}$ = Mass of coating solids deposited per mass of coating used for coating, i, or composite mass of coating solids deposited per mass of coating used for the group of coatings, including coating, i, in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg of solids deposited per kg of coating used, from Equation 8 of this section.

$Wvoc_{c,i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat, EPA–453/R–08–002'' (incorporated by reference, *see* § 60.17).

(4) Calculate the mass of coating solids deposited per mass of coating used for each coating or the composite mass of coating solids deposited per mass of coating used for each group of coatings used during the month in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted using Equation 7 of this section:

$$W_{sdep,i} = (W_{s,i})(TE_{c,i}) \quad \text{(Eq. 7)}$$

Where:

$W_{sdep,\ i}$ = Mass of coating solids deposited per mass of coating used for coating, i, or composite mass of coating solids deposited per mass of coating used for the group of coatings including coating, i, in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg coating solids deposited per kg coating used.

$W_{s,\ i}$ = Mass fraction of coating solids for coating, i, or average mass fraction of coating solids for the group of coatings including coating, i, kg coating solids per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat, EPA–453/R–08–002'' (incorporated by reference, *see* § 60.17).

$TE_{c,\ i}$ = Transfer efficiency of coating, i, or average transfer efficiency for the group of coatings including coating, i, in the spray booth(s) for the flash-off area or bake oven for which the panel test is conducted determined according to § 60.393a(h), expressed as a decimal, for example 60 percent must be expressed as 0.60. (Transfer efficiency also may be determined by testing representative coatings. The same coating groupings may be appropriate used for both transfer efficiency testing and panel testing. In this case, all of the coatings in a panel test grouping would have the same transfer efficiency.)

(f) *Alternative capture efficiency procedure.* As an alternative to the procedures specified in paragraphs (c) through (e) and (g) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the Data Quality Objective (DQO) or Lower Confidence Limit (LCL) approach as described in appendix A to subpart KK of 40 CFR part 63.

(g) *Panel testing to determine the capture efficiency of spray booth emissions from solvent-borne coatings.* You may conduct panel testing to determine the capture efficiency of spray booth emissions from solvent-borne coatings using the procedure in appendix A to this subpart.

TABLE 1 TO SUBPART MMa OF PART 60—OPERATING LIMITS FOR CAPTURE SYSTEMS AND ADD-ON CONTROL DEVICES

[If you are required to comply with operating limits by § 60.392a(g), you must comply with the applicable operating limits in the following table.]

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 60.394a(a).	i. Collecting the combustion temperature data according to § 60.394a(i); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 60.394a(b); and either	i. Collecting the temperature data temperature according to § 60.394a(i)); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.
	b. Ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 60.394a(b)(2); or	i. Collecting the temperature data according to § 60.394a(i); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature difference at or above the temperature difference limit; or
	c. Develop and implement an inspection and maintenance plan according to § 60.394a(b)(4).	i. Maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by § 60.394a(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. Regenerative carbon adsorber	a. The total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to § 60.394a(c).	i. Measuring the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle according to § 60.394a(j); and ii. Maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.
	b. The temperature of the carbon bed after completing each regeneration and any cooling cycle must not exceed the carbon bed temperature limit established according to § 60.394a(c).	i. Measuring the temperature of the carbon bed after completing each regeneration and any cooling cycle according to § 60.394a(j); and ii. Operating the carbon beds such that each carbon bed is not returned to service until completing each regeneration and any cooling cycle until the recorded temperature of the carbon bed is at or below the temperature limit.
4. Condenser	a. The average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to § 60.394a(d).	i. Collecting the condenser outlet (product side) gas temperature according to § 60.394a(k); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas temperature at the outlet at or below the temperature limit.
5. Concentrators, including zeolite wheels and rotary carbon adsorbers.	a. The average desorption gas inlet temperature in any 3-hour period must not fall below the limit established according to § 60.394a(e).	i. Collecting the temperature data according to § 60.394a(l); ii. Reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature at or above the temperature limit.

TABLE 1 TO SUBPART MMa OF PART 60—OPERATING LIMITS FOR CAPTURE SYSTEMS AND ADD-ON CONTROL DEVICES—Continued

[If you are required to comply with operating limits by § 60.392a(g), you must comply with the applicable operating limits in the following table.]

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
6. Emission capture system that is a PTE	a. The direction of the air flow at all times must be into the enclosure; and either b. The average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or c. The pressure drop across the enclosure must be at least 0.007 inch water, as established in Method 204 of appendix M to 40 CFR part 51.	i. Collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to § 60.394a(m)(1) or the pressure drop across the enclosure according to § 60.394a(m)(2); and ii. Maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
7. Emission capture system that is not a PTE ...	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 60.394a(f). This applies only to capture devices that are not part of a PTE that meets the criteria of § 60.397a(a) and that are not capturing emissions from a downdraft spray booth or from a flashoff area or bake oven associated with a downdraft spray booth.	i. Collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 60.394a(m); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

Appendix A to Subpart MMa of Part 60—Determination of Capture Efficiency of Automobile and Light-Duty Truck Spray Booth Emissions From Solvent-Borne Coatings Using Panel Testing

1.0 Applicability, Principle, and Summary of Procedure.

1.1 Applicability.

This procedure applies to the determination of capture efficiency of automobile and light-duty truck spray booth emissions from solvent-borne coatings using panel testing. This procedure can be used to determine capture efficiency for partially controlled spray booths (*e.g.,* automated spray zones controlled and manual spray zones not controlled) and for fully controlled spray booths.

1.2 Principle.

1.2.1 The volatile organic compounds (VOC) associated with the coating solids deposited on a part (or panel) in a controlled spray booth zone (or group of contiguous controlled spray booth zones) partition themselves between the VOC that volatilize in the controlled spray booth zone (principally between the spray gun and the part) and the VOC that remain on the part (or panel) when the part (or panel) leaves the controlled spray booth zone. For solvent-borne coatings essentially all of the VOC associated with the coating solids deposited on a part (or panel) in a controlled spray booth zone that volatilize in the controlled spray booth zone pass through the waterwash and are exhausted from the controlled spray booth zone to the control device.

1.2.2 The VOC associated with the overspray coating solids in a controlled spray booth zone partition themselves between the VOC that volatilize in the controlled spray booth zone and the VOC that are still tied to the overspray coating solids when the overspray coating solids hit the waterwash. For solvent-borne coatings almost all of the VOC associated with the overspray coating solids that volatilize in the controlled spray booth zone pass through the waterwash and are exhausted from the controlled spray booth zone to the control device. The exact fate of the VOC still tied to the overspray coating solids when the overspray coating solids hit the waterwash is unknown. This procedure assumes that none of the VOC still tied to the overspray coating solids when the overspray coating solids hit the waterwash are captured and delivered to the control device. Much of this VOC may become entrained in the water along with the overspray coating solids. Most of the VOC that become entrained in the water along with the overspray coating solids leave the water, but the point at which this VOC leave the water is unknown. Some of the VOC still tied to the overspray coating solids when the overspray coating solids hit the waterwash may pass through the waterwash and be exhausted from the controlled spray booth zone to the control device.

1.2.3 This procedure assumes that the portion of the VOC associated with the overspray coating solids in a controlled spray booth zone that volatilizes in the controlled spray booth zone, passes through the waterwash and is exhausted from the controlled spray booth zone to the control device is equal to the portion of the VOC associated with the coating solids deposited on a part (or panel) in that controlled spray booth zone that volatilizes in the controlled spray booth zone, passes through the waterwash, and is exhausted from the controlled spray booth zone to the control device. This assumption is equivalent to treating all of the coating solids sprayed in the controlled spray booth zone as if they are deposited coating solids (*i.e.,* assuming 100 percent transfer efficiency) for purposes of using a panel test to determine spray booth capture efficiency.

1.2.4 This is a conservative (low) assumption for the portion of the VOC associated with the overspray coating solids in a controlled spray booth zone that volatilizes in the controlled spray booth zone. Thus, this assumption results in an underestimate of conservative capture efficiency. The overspray coating solids have more travel time and distance from the spray gun to the waterwash than the deposited coating solids have between the spray gun and the part (or panel). Therefore, the portion of the VOC associated with the overspray coating solids in a controlled spray booth zone that volatilizes in the controlled spray booth zone should be greater than the portion of the VOC associated with the coating solids deposited on a part (or panel) in that controlled spray booth zone that volatilizes in that controlled spray booth zone.

1.3 Summary of Procedure

1.3.1 A panel test is performed to determine the mass of VOC that remains on the panel when the panel leaves a controlled spray booth zone. The total mass of VOC associated with the coating solids deposited on the panel is calculated.

1.3.2 The percent of the total VOC associated with the coating solids deposited on the panel in the controlled spray booth

zone that remains on the panel when the panel leaves the controlled section of the spray booth is then calculated from the ratio of the two previously determined masses. The percent of the total VOC associated with the coating solids deposited on the panel in the controlled spray booth zone that is captured and delivered to the control device equals 100 minus this percentage. (The mass of VOC associated with the coating solids deposited on the panel which is volatilized and captured in the controlled spray booth zone equals the difference between the total mass of VOC associated with the coating solids deposited on the panel and the mass of VOC remaining with the coating solids deposited on the panel when the panel leaves the controlled spray booth zone.)

1.3.3 The percent of the total VOC associated with the coating sprayed in the controlled spray booth zone that is captured and delivered to the control device is assumed to be equal to the percent of the total VOC associated with the coating solids deposited on the panel in the controlled spray booth zone that is captured and delivered to the control device. The percent of the total VOC associated with the coating sprayed in the entire spray booth that is captured and delivered to the control device can be calculated by multiplying the percent of the total VOC associated with the coating sprayed in the controlled spray booth zone that is captured and delivered to the control device by the fraction of coating sprayed in the spray booth that is sprayed in the controlled spray booth zone.

2.0 Procedure

2.1 You may conduct panel testing to determine the capture efficiency of spray booth emissions. You must follow the instructions and calculations in this appendix A, and use the panel testing procedures in ASTM D5087–02 (Reapproved 2021), ''Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solventborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)'' (incorporated by reference, *see* § 60.17), or the guidelines presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17). You must weigh panels at the points described in section 2.5 of this appendix A and perform calculations as described in sections 3 and 4 of this appendix A. You may conduct panel tests on the production paint line in your facility or in a laboratory simulation of the production paint line in your facility.

2.2 You may conduct panel testing on representative coatings as described in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17). If you panel test representative coatings, then you may calculate either a unique percent capture efficiency value for each coating grouped with that representative coating, or a composite percent capture efficiency value for the group of coatings. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency value for that coating.

2.3 Identification of Controlled Spray Booth Zones.

You must identify each controlled spray booth zone or each group of contiguous controlled spray booth zones to be tested. (For example, a controlled bell zone immediately followed by a controlled robotic zone.) Separate panel tests are required for non-contiguous controlled spray booth zones. The flash zone between the last basecoat zone and the first clearcoat zone makes these zones non-contiguous.

2.4 Where to Apply Coating to the Panel.

If you are conducting a panel test for a single controlled spray booth zone, then you must apply coating to the panel only in that controlled spray booth zone. If you are conducting a panel test for a group of contiguous controlled spray booth zones, then you must apply coating to the panel only in that group of contiguous controlled spray booth zones.

2.5 How to Process and When to Weigh the Panel.

The instructions in this section pertain to panel testing of coating, i, or of the coating representing the group of coatings that includes coating, i.

2.5.1 You must weigh the blank panel. (Same as in bake oven panel test.) The mass of the blank panel is represented by $W_{blank,i}$ (grams).

2.5.2 Apply coating, i, or the coating representing coating, i, to the panel in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested (in plant test), or in a simulation of the controlled spray booth zone or group of contiguous controlled spray booth zones being tested (laboratory test).

2.5.3 Remove and weigh the wet panel as soon as the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested. (Different than bake oven panel test.) This weighing must be conducted quickly to avoid further evaporation of VOC. The mass of the wet panel is represented by $W_{wet,i}$ (grams).

2.5.4 Return the wet panel to the point in the coating process or simulation of the coating process where it was removed for weighing.

2.5.5 Allow the panel to travel through the rest of the coating process in the plant or laboratory simulation of the coating process. You must not apply any more coating to the panel after it leaves the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested. The rest of the coating process or simulation of the coating process consists of:

2.5.5.1 All of the spray booth zone(s) or simulation of all of the spray booth zone(s) located after the controlled spray booth zone or group of contiguous controlled spray booth zones being tested and before the bake oven where the coating applied to the panel is cured,

2.5.5.2 All of the flash-off area(s) or simulation of all of the flash-off area(s) located after the controlled spray booth zone or group of contiguous controlled spray booth zones being tested and before the bake oven where the coating applied to the panel is cured, and

2.5.5.3 The bake oven or simulation of the bake oven where the coating applied to the panel is cured.

2.5.6 After the panel exits the bake oven, you must cool and weigh the baked panel. (Same as in bake oven panel test.) The mass of the baked panel is represented by $W_{baked,i}$ (grams).

3.0 Panel Calculations

The instructions in this section pertain to panel testing of coating, i, or of the coating representing the group of coatings that includes coating, i.

3.1 The mass of coating solids (from coating, i, or from the coating representing coating, i, in the panel test) deposited on the panel equals the mass of the baked panel minus the mass of the blank panel as shown in Equation A–1.

$$W_{sdep,i} = W_{baked,i} - W_{blank,i} \quad \text{(Eq. A-1)}$$

Where:

$W_{sdep,\ i}$ = Mass of coating solids (from coating, i, or from the coating representing coating, i, in the panel test) deposited on the panel, grams.

3.2 The mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested equals the mass of the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested minus the mass of the baked panel as shown in Equation A–2.

$$W_{rem,i} = W_{wet,i} - W_{baked,i} \quad \text{(Eq. A-2)}$$

Where:

$W_{rem, i}$ = Mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, grams.

3.3 Calculate the mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested per mass of coating solids deposited on the panel as shown in Equation A–3.

$$P_{m,i} = (W_{rem,i})/(W_{sdep,i}) \quad \text{(Eq. A-3)}$$

Where:

$P_{m, i}$ = Mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested per mass of coating solids deposited on the panel, grams of VOC remaining per gram of coating solids deposited.

$W_{rem, i}$ = Mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, grams.

$W_{sdep, i}$ = Mass of coating solids (from coating, i, or from the coating representing coating, i, in the panel test) deposited on the panel, grams.

4.0 Converting Panel Result to Percent Capture

The instructions in this section pertain to panel testing of for coating, i, or of the coating representing the group of coatings that includes coating, i.

4.1 If you panel test representative coatings, then you may convert the panel test result for each representative coating from section 3.3 of this appendix A either to a unique percent capture efficiency value for each coating grouped with that representative coating by using coating specific values for the mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A, or to a composite percent capture efficiency value for the group of coatings by using the average values for the group of coatings for mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency value by using coating specific values for the mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A. The mass fraction of VOC in the coating and the mass fraction of solids in the coating must be determined by Method 24 (appendix A–7 to 40 CFR part 60) or by following the guidelines for combining analytical VOC content and formulation solvent content presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17).'≤

4.2 The percent of VOC for coating, i, or composite percent of VOC for the group of coatings including coating, i, associated with the coating solids deposited on the panel that remains on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested is calculated using Equation A–4.

$$Pvoc_{pan,i} = (P_{m,i})(W_{s,i})(100)/(Wvoc_{c,i}) \quad \text{(Eq. A-4)}$$

Where:

$Pvoc_{pan, i}$ = Percent of VOC for coating, i, or composite percent of VOC for the group of coatings including coating, i, associated with the coating solids deposited on the panel that remains on the wet panel when the wet panel leaves the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested, percent.

$P_{m, i}$ = Mass of VOC (from coating, i, or from the coating representing coating, i, in the panel test) remaining on the wet panel when the wet panel leaves the controlled spray booth zone or group of contiguous controlled spray booth zones being tested per mass of coating solids deposited on the panel, grams of VOC remaining per gram of coating solids deposited.

$W_{s, i}$ = Mass fraction of coating solids for coating, i, or average mass fraction of coating solids for the group of coatings including coating, i, grams coating solids per gram coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or by following the guidelines for combining analytical VOC content and formulation solvent content presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat, EPA–453/R–08–002'' (incorporated by reference, *see* § 60.17).

$Wvoc_{c, i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings including coating, i, grams VOC per grams coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations,'' EPA–453/R–08–002 (incorporated by reference, *see* § 60.17).

4.3 The percent of VOC for coating, i, or composite percent of VOC for the group of coatings including coating, i, associated with the coating sprayed in the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested that is captured in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, $CE_{zone,i}$ (percent), is calculated using Equation A–5.

$$CE_{zone,i} = 100 - Pvoc_{pan,i} \quad \text{(Eq. A-5)}$$

Where:

$CE_{zone, i}$ = Capture efficiency for coating, i, or for the group of coatings including coating, i, in the controlled spray booth zone or group of contiguous controlled

spray booth zones being tested as a percentage of the VOC in the coating, i, or of the group of coatings including coating, i, sprayed in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, percent.

4.4 Calculate the percent of VOC for coating, i, or composite percent of VOC for the group of coatings including coating, i, associated with the entire volume of coating, i, or with the total volume of all of the coatings grouped with coating, i, sprayed in the entire spray booth that is captured in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, using Equation A–6. The volume of coating, i, or of the group of coatings including coating, i, sprayed in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, and the volume of coating, i, or of the group of coatings including coating, i, sprayed in the entire spray booth may be determined from gun on times and fluid flow rates or from direct measurements of coating usage.

$$CE_i = (CE_{zone,i})(V_{zone,i})/(V_{booth,i}) \quad \text{(Eq. A-6)}$$

Where:

CE_i = Capture efficiency for coating, i, or for the group of coatings including coating, i, in the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested as a percentage of the VOC in the coating, i, or of the group of coatings including coating, i, sprayed in the entire spray booth in which the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested, percent.

$V_{zone,\ i}$ = Volume of coating, i, or of the group of coatings including coating, i, sprayed in the controlled spray booth zone or group of contiguous controlled spray booth zones being tested, liters.

$V_{booth,\ i}$ = Volume of coating, i, or of the group of coatings including coating, i, sprayed in the entire spray booth containing the controlled spray booth zone (or group of contiguous controlled spray booth zones) being tested, liters.

4.5 If you conduct multiple panel tests for the same coating or same group of coatings in the same spray booth (either because the coating or group of coatings is controlled in non-contiguous zones of the spray booth, or because you choose to conduct separate panel tests for contiguous controlled spray booth zones), then you may add the result from section 4.4 for each such panel test to get the total capture efficiency for the coating or group of coatings over all of the controlled zones in the spray booth for the coating or group of coatings.

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